[DE] Youth Protection Act and Inter-State Agreement on Youth Protection in the Media Adopted

IRIS 2002-9:1/30

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Youth protection reforms in Germany (see IRIS 2002-6: 13) are progressing. On 21 June 2002, the Bundesrat (upper house of parliament) followed the Bundestag (lower house) in approving the new Jugendschutzgesetz (Youth Protection Act). The Act will enter into force together with the Staatsvertrag über den Schutz der Menschenwürde und den Jugendschutz in Rundfunk und Telemedien - Jugendmedienschutz-Staatsvertrag (InterState Agreement on the protection of human dignity and minors in broadcasting and telemedia - JMStV), for which the Länder are responsible.

One of the aims of these reforms is to create a coregulation system to guarantee the protection of minors. Self-regulatory bodies and State authorities should work together to protect minors in the media. Whether they are successful will depend in particular on co-operation between the groups involved, since the first draft, which was published in May 2002, was fiercely contested. The most controversial aspect was the relationship between self-regulation, which was previously organised privately, and State supervision, in the new co-regulation system, together with the make-up of the Kommission für den Jugendmedienschutz (Commission for Protection of Youth in the Media - KJM), which was to be set up at Land level. In particular, the regional media authorities, which currently monitor compliance with youth protection provisions in the private TV sector, held conflicting views to the self-regulatory bodies (which were supported by their umbrella organisations) which, independent of the State, supervise the protection of minors in the television sector (Freiwillige Selbstkontrolle Fernsehen - FSF) and in other telemedia (Freiwillige Selbstkontrolle MultimediaFSM). Whereas the regional media authorities argued that the co-regulatory bodies should have total control, the self-regulatory bodies thought that the provisions set out in the Inter-State Agreement, particularly the demands of the regional media authorities, were excessive. Under the compromise that has now been reached, the coregulatory bodies have a certain degree of freedom to make their decisions. The State authorities can only ensure that the boundaries of that freedom are not crossed. On the other hand, the obligation for co-regulatory bodies (previously the self-regulatory authorities) to be licensed was maintained. Furthermore, the position of the KJM is now stronger than in the original draft, boosted at the expense of the co-regulatory bodies.

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Even now, the final version of the Inter-State Agreement is not without its controversies. Whilst it appears acceptable to the regional media authorities and the FSF, representatives of associations of media and Internet service providers have claimed that the Agreement is worded ambiguously. They fear that the current version makes provision for heavy penalties to be imposed on hosting and access providers as well as traditional telemedia providers who fail to take measures to block access to content that might harm the development of minors. Moreover, the FSM has announced that it will not apply for a licence and will therefore not become part of the co-regulatory framework. Whether it will stick to this position, and how the system will work in such circumstances, only time will tell.

Jugendschutzgesetz (JuSchG) vom 23. Juli 2002 BGBl I 2002, S. 2730

Youth Protection Act, 23 July 2002, Federal Gazette I 2002, p.2730

Staatsvertrag über den Schutz der Menschenwürde und den Jugendschutz in Rundfunk und Telemedien Jugendmedienschutz-Staatsvertrag JMStV, Entwurf vom 9. August 2002

Inter-State Agreement on the protection of human dignity and minors in broadcasting and telemedia, Draft of 9 August 2002

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