[DE] Berlin Court's Emergency Ruling on “Saving Private Ryan”

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In the dispute over the possible harm to minors caused by violent scenes in the film "Saving Private Ryan", the Oberverwaltungsgericht Berlin (Berlin Administrative Appeals Court - OVG) has overturned an emergency ruling by the Verwaltungsgericht Berlin (Berlin Administrative Court). The case concerns the granting of special permission to broadcast the film at 8.15 pm. Since the film was rated "16", it would have had to be shown after 10 pm unless such permission were granted. The body responsible for granting special permission is the Medienanstalt Berlin-Brandenburg (Berlin-Brandenburg Media Authority - MABB). Last year, the Berlin Administrative Court quashed two decisions by the MABB, in which the latter had refused to grant special permission (see IRIS 2002-8: 6). This time, it upheld the broadcaster's urgent application and ordered the MABB immediately to grant temporary permission for the film to be broadcast at 8.15 pm on 5 January 2003.

The MABB appealed against this decision by the Administrative Court. The OVG upheld the appeal and overturned the Court's verdict. Under German law, the special permission applied for may only be granted under particular circumstances in emergency proceedings. Since in such proceedings the Court's decision is anticipated, it must be highly probable, for example, that permission would be granted in later proceedings. In the OVG's view, this was not the case. It decided that the authority responsible should determine whether, in order to protect minors, even the edited version of the film should only be broadcast after 10 pm, bearing in mind the indisputably graphic violence shown in the first half-hour of the film. An assessment by an administrative body could not be replaced by a Court decision. Therefore, according to the OVG, the report by the Freiwillige Selbstkontrolle Fernsehen (Voluntary Self-Regulatory Authority for Television - FSF), which approved the broadcast before 10 pm, was not a decisive factor. Although the FSF report was not binding, the Administrative Court had set great store by it (see IRIS 2002-8: 6).

Meanwhile, the Administrative Court's first instance ruling has entered into force. Nevertheless, the dispute over whether the film is harmful to minors is expected to continue, since ProSieben showed the film on 5 January 2003 even though it had not been granted the necessary permission. The MABB said it would fine the broadcaster.

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Verwaltungsgericht Berlin, Beschluss vom 12. Dezember 2002, Az.: VG 27 A 392.03

Berlin Administrative Court, ruling of 12 December 2002, case no.: VG 27 A 392.03

Oberverwaltungsgericht Berlin, Beschluss vom 23. Dezember 2002, Az.: OVG 8 S 362.02

Oberverwaltungsgericht Berlin (Berlin Administrative Appeals Court), ruling of 23 December 2002, case no.: OVG 8 S 362.02

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