# [DE] Court prohibits violence on television at certain viewing times

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The Administrative Court in Frankfurt-am-Main recently upheld the decision of the regional Private Broadcasting Authority of Hesse forbidding the private television channel RTL 2 to show the "World Wrestling Federation" programme before 21.00. In so doing, it gave protection of the young priority over the interests of the broadcaster. RTL 2s appeal against this decision was rejected by the Administrative Court of Appeal in Kassel.

The court considers showing of the "wrestling programme" in the afternoon (16.00-17.00) a danger to young people.

The decision is based on Section 21, sub-section 2, sentence 1 of the Hesse Private Broadcasting Act, and on Para. 3, sub-para. 2, sentence 1 of the Agreement on Broadcasting between the Federal States in United Germany. These provisions prohibit the dissemination of programmes which are likely to be physically, intellectually or psychologically harmful to children or young people. Broadcasters must use transmission times or other means to ensure that children or young people in the age groups concerned do not normally see these programmes.

In support of its decision, the court argues that younger children in particular cannot tell, when watching "wrestling programmes", that what they are seeing is not a genuine wrestling match, but a simple performance. It takes the view that careful observation, background knowledge and a capacity for abstraction and objective evaluation are needed to see that the protagonists are not actually injuring each other. In addition to the facial expressions and physical gestures of the participants, the impression that this is a genuine combat is heightened by the commentary, which is totally unsuitable for children. The contents trivialise the portrayal of violence and make it seem completely normal.

The court does not believe that an accompanying programme, shown before or after the main programme, and explaining to children that they are seeing staged combats and acrobatics, can remedy these harmful effects. It argues that there is absolutely no guarantee that children and young people will actually watch these accompanying programmes. It can also be assumed that many children will have forgotten the accompanying programme by the time they watch the main one.

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The supervisory authority's decision does not constitute censorship of the kind forbidden by Art. 5, para. 1, sentence 1 of the Basic Law (the federal constitution of Germany). It is not the showing of a "wrestling programme" which is being prohibited per se, but simply the showing of that programme at a certain time. The decision has a constitutional basis in Art. 5, para. 2 of the Basic Law, which subordinates broadcasting freedom to the laws on protection of young people. (Wolfgang Cloß, Institut für Europäisches Medienrecht - EMR)

### *VG Frankfurt a.M., Beschluss vom 25. August 1995 - 15 G 2446/95.*

*Administrative Court, Frankfurt-am-Main, decision of 25 August 1995 - 15 G 2446/95.*

### *VGH Kassel, Beschluss vom 25. August 1995 - 6 TG 2860/95.*

*Administrative Court of Appeal, Kassel, decision of 25 August 1995 - 6 TG 2860/95.*

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