[DE] Court Upholds Rulings that TV Programmes Breached Human Dignity and Youth Protection Provisions

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On 6 February 2007, the *Verwaltungsgericht Hannover* (Hanover Administrative Court - VG) rejected two appeals by broadcaster RTL against decisions of the *Kommission für Jugendmedienschutz* (Commission for the Protection of Youth in the Media - KJM) (case nos. 7 A 5469/06 and 7 A 5470/06).

In decisions reached in July and October 2005, the *Niedersächsische Landesmedienanstalt* (Lower Saxony *Land* Media Authority - NLM) had ruled that various TV programmes broadcast by *RTL* in 2004 had been unlawful. These decisions had been based on rulings of the KJM, a body jointly set up by the German *Landesmedienanstalten* (*Land* media authorities) to monitor compliance with the provisions of the *Jugendmedienschutz-Staatsvertrag* (Inter-State Agreement on protection of youth in the media - JMStV) (see IRIS 2002-9: 15). The KJM's decisions on infringements and punitive measures are implemented by the *Landesmedienanstalten*.

The first programme criticised by the KJM was an episode of a so-called "docu-soap" called "*Die Autohändler*" (the car dealers), which had been shown during the afternoon. The programme had contained scenes in which the main characters had treated females who had applied for cleaning jobs in their company in a derogatory manner. One male character, for example, had suddenly thrown an attaché case at one of the women, called her "*Toastbrot*" (a piece of toast) and, referring to her appearance, asking if she had previously worked on a ghost train. RTL had argued before the court that the KJM's decision-making procedure was not correct. It claimed that the KJM had, despite the clearly differing opinions of its members concerning the programme, taken its decision via the so-called "circulation procedure", under which votes could be cast by fax and only needed to be justified if they contradicted the recommendation laid down. The necessary discussion had not taken place. However, the court considered that any such procedural breaches had been rectified by a subsequent KJM decision and confirmed that the behaviour shown had been likely to harm the development of children and young people into responsible people capable of living in society (Art. 5 JMStV). The programme should therefore not have been shown until late in the evening.

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The other complaint concerned four television programmes that reported on the rescue of a helpless old man who had been ill-treated by his nurse. The reports repeatedly showed images secretly filmed by a private individual, in which the nurse beat the man and made indisputably inhumane comments about him. In this case, the court considered that the right to free reporting enshrined in Art. 5(1)(2) of the *Grundgesetz* (Basic Law - GG), had been restricted by the inviolability of human dignity (Art. 1(1) GG). The court ruled that the human dignity of the helpless man had been breached because the victim had been used by the broadcaster for reporting purposes and because of the way his ill-treatment had been broadcast repeatedly. The VG ruled that there had been no justification for showing his suffering in such detail.

Verwaltungsgericht Hannover, Urteil vom 6. Februar 2007 (Az.: 7 A 5469/06)

Hanover Administrative Court, ruling of 6 February 2007 (case no. 7 A 5469/06)

Verwaltungsgericht Hannover, Urteil vom 6. Februar 2007 (Az.: 7 A 5470/06)

Hanover Administrative Court, ruling of 6 February 2007 (case no. 7 A 5470/06)

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