[DE] *bereits18.de* Age Verification System Deemed Unsuitable Under the JMStV

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Carmen Palzer
Institute of European Media Law (EMR), Saarbrücken/Brussels

In an urgent procedure, the *Bayerische Verwaltungsgericht* (Bavarian Administrative Court - BayVG) in Munich was asked to rule on the suitability of the " *bereits18.de* " age verification system under the terms of Art. 4.2.2 of the *Staatsvertrag über den Schutz der Menschenwürde und den Jugendschutz in Rundfunk und Telemedien* (Inter-State Agreement on the protection of human dignity and minors in broadcasting and telemedia - JMStV).

According to Art. 4.2.1 of the JMStV, broadcast and telemedia content is unlawful in principle if it is pornographic (No. 1), if it is included in certain lists of media that pose a threat to young people or is similar to such media (No. 2), or if it is clearly likely to seriously impede the development of children and young people or their growth into independent people capable of living in society, taking into account the particular nature of the medium concerned (No. 3).

Art. 4.2.2 stipulates that telemedia content, which does not meet these requirements may be lawful as long as the provider ensures that it is only accessible to adults, i.e. it is available only to a closed user group.

In its decision of 31 January 2007, the *BayVG* ruled that the " *bereits18.de*" system did not meet the required standards since, just like the similarly functioning " *ueber18.de* " system, it was only based on the input of an identity card number. Numerous court decisions had already been issued concerning " *ueber18.de* “, declaring that this system did not provide an effective barrier since it failed to offer sufficient security against minors gaining access to protected websites. The conclusion that the " *bereits18.de* “ system would probably prove to be inadequate was not affected by the claimant's reference to the complaint pending with the *Bundesverfassungsgericht* (Federal Constitutional Court, case no. 1 BvR 710/05) concerning the " *ueber18.de* “ system. On the one hand, the BayVG was unaware of such a complaint and, on the other, it had no doubt that the relevant provisions of the JMStV were constitutional.

Beschluss des Bayerischen Verwaltungsgerichts (BayVG) München, 31. Januar 2007

Decision of the Bavarian Administrative Court in Munich of 31 January 2007

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