[DE] Lüneburg Court Confirms that RTL Programme Breached Human Dignity

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According to a decision of the *Niedersächsische Oberverwaltungsgericht* (Lower Saxony Higher Administrative Court - OVG) in Lüneburg, the television broadcaster RTL breached human dignity with a report on the ill-treatment of a helpless old man (case no. 10 LA 101/07).

The *Verwaltungsgericht Hannover* (Hanover Administrative Court) had previously upheld a decision taken by the *Niedersächsische Landesmedienanstalt* (Lower Saxony State Media Authority - NLM) against RTL due to a breach of human dignity (see IRIS 2007-3: 11). During various news and magazine programmes on 1 December 2004, RTL had broadcast similar reports depicting the ill-treatment by his nurse of a 91-year old man in need of care.

The OVG Lüneburg rejected the appeal against this decision and confirmed the ruling of the Hanover Administrative Court, which considered there to have been no legitimate reason to show the victim's suffering in such detail in the 2004 programmes. The main points of the decision can be summarised as follows:

1. The NLM's decision cannot formally be considered unlawful on the grounds that the Examination Committee of the *Kommission für Jugendmedienschutz* (Commission for the Protection of Young People in the Media - KJM) took its decision by means of a "circulation procedure" rather that at a meeting. Under Art. 90 (1) sentence 2 of the *Verwaltungsverfahrensgesetz* (Act on Administrative Procedure - VwVfG), such a meeting is necessary only if the purpose or context of a rule is such that joint consultation is particularly important, which is not the case here.

2. The reports were unlawful under Art. 4 (1) sentence 1 no. 8 of the *Jugendmedienschutz-Staatsvertrag* (Inter-State Agreement on the Protection of Young People in the Media - JMStV) on the grounds that they breached human dignity, particularly by depicting an actual event showing people dying or being exposed to serious physical or mental suffering, without a legitimate reason for this form of representation or reporting.

3. If images in which a helpless old man is subjected to ill-treatment and insults by his nurse are broadcast in extended form as part of news and magazine programmes, they are unlawful even if the aim of the broadcast was to draw

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attention to and criticise problems with the care system.

Beschluss des OVG Lüneburg vom 20. Oktober 2008 (Az: 10 LA 101/07) ist abrufbar unter:

Decision of the OVG Lüneburg of 20 October 2008 (case no. 10 LA 101/07)

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