[DE] "Sex and the City" Broadcast Broke Youth Protection Rules

IRIS 2009-5:1/17

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The *Verwaltungsgericht Berlin* (Berlin Administrative Court - VG) has decided that the private television channel *ProSieben* broke youth protection legislation by broadcasting the episode "Three's a Crowd" of the series "Sex and the City" at 6p.m., and rejected the broadcaster's appeal against the objections raised by the *Medienanstalt Berlin-Brandenburg* (Berlin-Brandenburg Media Authority - MABB).

The *Kommission für Jugendmedienschutz* (Commission for the protection of young people in the media - KJM) considered the episode to be likely to harm the development of children under 12 within the meaning of the *Jugendmedienschutzstaatsvertrag* (Inter-State Agreement on the protection of young people in the media - JMStV) and ruled that, in future, it should only be broadcast after 8 p.m. *ProSieben* argued that the *Freiwillige Selbstkontrolle der Filmwirtschaft* (the film industry's voluntary self-monitoring body - FSK) had granted an "over 12" certificate for this edited version of the series. The *Freiwillige Selbstkontrolle Fernsehen* (the television industry's voluntary self-monitoring body - FSF) had also granted applications for 42 episodes of the series to be shown during the daytime; the broadcaster claimed that this meant the whole series could be broadcast in the daytime schedule. It also argued that the episode concerned did not harm the psychosocial and psychosexual development of children, since it did not contain any visual portrayal of sexual themes and the words used were a common part of young people's vocabulary.

The VG disagreed. It held that the certificate issued by the FSK did not mean that this version of the episode could be broadcast in the early evening schedule, for which an "over 6" or "no age restriction" certificate would be required. Moreover, requests to the FSF to examine individual episodes did not signify that the whole series could be shown during the daytime. Incidentally, *ProSieben* had previously submitted two different edited versions of the episode in question to the FSF and been denied permission to show them before 8p.m. The episode had been likely to harm the development of children in the sense of the JMStV. It was true that, when evaluating this question, the defendant had no leeway at all. Nevertheless, the KJM was an expert body whose decisions could only be appealed if they were implausible, inconsistent or based on inaccurate information. With this in mind, the plaintiff's objections were not sufficient to cast doubt on the KJM's evaluation. In particular, it had failed to take into account that, as far as the language used was concerned, it was not just 12-year olds, but much younger children who could

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be affected.

Urteil des Verwaltungsgericht Berlin vom 28. Januar 2009 (Az. VG 27 A 61.07)

http://www.telemedicus.info/urteile/684-VG-27-A-61.07.html

Ruling of the Berlin Administrative Court, 28 January 2009 (case no. VG 27 A 61.07)

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