[CH] Admissible TV Reports on Controversial Referendum Poster for Minaret Initiative

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In October 2009, Schweizer Fernsehen SF 1, a German-language channel operated by the Schweizerische Radio- und Fernsehgesellschaft (Swiss radio and television corporation - SRG) reported on the controversial referendum poster used by supporters of the petition for a referendum concerning a ban on the construction of minarets. A two-minute report in the “Tagesschau” news programme sought the views of municipal authorities and the Eidgenössische Kommission gegen Rassismus (Swiss anti-racism commission - EKR) on the controversial poster. A report lasting more than four minutes in the “10vor10” current affairs programme focused on the reaction of Muslims.

In both reports, the controversial poster was shown for a significant period of time (45 and 62 seconds respectively), including some time in close-up. A joint complaint was filed by 25 people, arguing that the detailed screening of the poster had breached various programming rules enshrined in the Radio- und Fernsehgesetz (Radio and Television Act - RTVG). The body responsible for ruling on complaints about the content of news programmes in Switzerland is the Unabhängige Beschwerdeinstanz für Radio und Fernsehen (independent radio and television complaints authority - UBI), which has powers similar to those of a court. The nine UBI members unanimously dismissed the complaint at a public session in April 2010.

In written grounds for its decision, published at the beginning of October, the UBI stressed that it had not been necessary to assess individual images, but only the overall context of the two television reports. It did not need to examine whether the disputed poster was discriminatory, offended religious sentiments, ignored basic human rights or incited racial hatred. In the light of Article 4(1) RTVG (respect for basic rights), the most important factor to consider was the message conveyed by the broadcasts. Neither report showed the poster without commentary or criticism. Rather, they provided the opportunity for extremely critical, outraged and mostly negative reactions to the content of the poster. The depiction of minarets reminiscent of long-range missiles was described by many interviewees as defamatory, disgusting, shocking and discriminatory. It was also mentioned that three cities had banned the poster. Schweizer Fernsehen had only shown the posters, which few people had been aware of when the broadcast took place, in order to illustrate the reason for the controversy. The UBI mentioned the

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ruling of the European Court of Human Rights in Strasbourg, which had authorised the broadcast of extremist statements if the programme was designed to contribute to the public debate on racism (ECHR ruling of 23 September 1994 in the case Jersild v Denmark, see IRIS 1995-1: 3/2).

The UBI held that the depiction of the posters had not been an end in itself, but had been sufficiently placed in the context of the debate over their content. For this reason, the UBI also dismissed the claim that the broadcasts had constituted unlawful, manipulative, surreptitious advertising. It was true that the lengthy, close-up shot of the posters had had a significant indirect advertising effect. However, this had to be accepted because the posters had been shown for information purposes and the advertising effect had been offset by the highly critical reporting. The freedom to form public opinion before the forthcoming referendum on the minaret initiative had not been harmed and the legal requirement for proper representation (Article 4(2) RTVG) had been met.

The UBI had already had to examine television reporting on the minaret initiative in March 2008, when it had rejected a complaint about discriminatory statements by the initiative's supporters in the "Infrarouge" discussion programme on the west Swiss television channel TSR. The UBI had ruled that aberrations could not be ruled out in live broadcasts. However, the presenter had responded to unacceptable statements, acted as a mediator and given the other side the opportunity to reply.

Entscheid der Unabhängigen Beschwerdeinstanz für Radio und Fernsehen (Beiträge über das Plakat zur Minarettinitiative) b. 612 vom 23. April 2010

http://www.ubi.admin.ch/x/b_612.pdf

Decision of the Independent Radio and Television Complaints Authority (reports on the minaret initiative poster), b. 612, 23 April 2010

Décision de l'Autorité indépendante des plaintes pour la radio et la télévision ("Infrarouge: Les minarets de la discorde"), b. 565, 10 mars 2008

http://www.ubi.admin.ch/x/b_565.pdf

Decision of the Independent Radio and Television Complaints Authority (programme "Infrarouge: Les minarets de la discorde"), b. 565, 10 March 2008

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Stellungnahme der Eidgenössischen Kommission gegen Rassismus (EKR) zum Aushang von Plakaten der Initiative „Gegen den Bau von Minaretten“ im öffentlichen Raum

http://www.ekr.admin.ch/dokumentation/00143/index.html?download=NHzLpZeg7t,lnp6I0NTU042l2Z6ln1acy4Zn4Z2qZpnO2Yuq2Z6gpJCDdIF9f2ym162epYbg2c_JjKbNoKSn6A--&lang=de

Statement of the Swiss anti-racism commission on the public display of posters for the “Gegen den Bau von Minaretten” initiative

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