[DE] BayVGH Rules on Broadcast Time Restrictions for "MTV I want a famous face"

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On 23 March 2011, the Bayerische Verwaltungsgerichtshof (Bavarian Administrative Court - BayVGH) endorsed the decision to restrict the broadcast times of two episodes of the programme "MTV I want a famous face" to between 11pm and 6am, thereby upholding the appeal of the Bayerische Landeszentrale für neue Medien (Bavarian Centre for New Media - BLM) on youth protection grounds (see IRIS 2009-10/8).

The decision followed a complaint by the provider of the MTV music channel against the broadcast time restriction imposed by the BLM for several episodes of the “MTV I want a famous face” series, which had been broadcast between 9.30pm and 10.30pm in July and August 2004. In these programmes, young adults underwent plastic surgery in order to look like their respective idols. The broadcast time restriction was based on a principle previously laid down by the Kommission für Jugendmedienschutz (Commission for the Protection of Minors in the Media - KJM), under which "TV programmes in which cosmetic surgery is suggested, carried out or filmed for entertainment purposes should, in principle, not be shown before 11pm". Such programmes were intrinsically likely to harm the development of children and young people. During the formative phase in which they were developing their own identity, it was “suggested to young viewers that outward appearance was all that mattered and that this could be changed at will. They could be given the impression that self-esteem problems could be solved by cutting off, reducing or increasing the size of certain parts of their body, or undergoing liposuction or injections."

The BayVGH ruled in the BLM’s favour. It held that the BLM could base the broadcast time restriction on the provisions 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 Young People in Broadcasting and Telemedia - JMStV). The episodes of the series concerned were likely to significantly affect the development of children and young people into independent, socially active, healthy individuals. In fact, although the KJM had no discretionary power in respect of the application of the JMStV, its expert opinion was binding because it had not been questioned or refuted during the court procedure. Furthermore, although Freiwillige Selbstkontrolle Fernsehen e.V. (Voluntary Self-Regulatory Authority for Television - FSF) had previously deemed

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one of the two episodes suitable for daytime broadcasting, the BayVGH thought that it had no other option since the programme had been changed before it was broadcast in Germany after the FSF had seen its original English-language version.

An appeal against the verdict was permitted.

Urteil des VGH vom 23. März 2011 (Az. 7 BV 09.2512 und 7 BV 09.2513)

http://www.vgh.bayern.de/BayVGH/documents/7BV09.2512und2513anonym.pdf

Administrative Court ruling of 23 March 2011 (case no. 7 BV 09.2512 and 7 BV 09.2513)

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