[CH] News Report on Brutal Films Breached Youth Protection Rules

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In the opinion of the Swiss Bundesgericht (Federal Tribunal), the Swiss public service broadcaster Schweizerische Radio- und Fernsehgesellschaft (SRG) breached the youth protection rules contained in broadcasting legislation by showing a television report about the brutal film genre known as “gore”. The report, lasting around two and a half minutes, had been broadcast on 6 July 2011 at 7.50 p.m. during the evening news bulletin of the SRG channel Télévision Suisse Romande (TSR) and concerned the NIFFF film festival in Neuchâtel that was underway at the time. As well as an interview with the gore film-maker Herschell Gordon Lewis, who was in Neuchâtel, it had contained various excerpts from some bloodthirsty films including “Blood Feast” (1963), “The Fly” (1986) and “Hostel” (2005).

According to the Federal Tribunal, the excerpts, characterised by brutality, sadism and perversion, portrayed the “gore” film genre, which was known for its extreme violence. Since the intention was neither to glorify nor to trivialise violence, they did not breach the provisions of Article 4(1) of the Bundesgesetz über Radio und Fernsehen (Federal Radio and Television Act - RTVG). This had already been confirmed by the Unabhängige Beschwerdeinstanz (Independent Complaints Authority - UBI) in its decision of February 2012.

However, like the UBI, the Federal Tribunal found TSR guilty of breaching the ban on programmes harmful to young people (Art. 5 RTVG). The report had been likely to harm the development of minors, since it was generally known that TSR evening news bulletins were often watched by family audiences. Although the presenter had given an oral warning a few seconds before the report was shown (“les images du sujet pourraient choquer certaines sensibilities”), this general remark had not given surprised parents enough time to protect their children from the impending portrayal of murder, horror and torture. Although even longer excerpts from the films concerned were freely accessible on the Internet, they had to be deliberately searched for.

The Federal Tribunal unanimously decided that the restriction of SRG’s media freedom was proportionate. The protection of children from harmful television programmes was in the public interest, as the European Court of Human Rights (ECHR) had stressed in its “Sigma Radio Television Ltd. v. Cyprus” ruling of 21 July 2011 (see IRIS 2011-8/3). SRG must now inform the UBI of the measures it plans

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to take to prevent a repeat of such violations of programming rules.

Décision du tribunal fédéral du 27 septembre 2012 (2C_738/2012)

http://jumpcgi.bger.ch/cgi-bin/JumpCGI?id=27.11.2012_2C_738/2012

Decision of the Federal Tribunal of 27 November 2012 (2C_738/2012)

Décision de l'Autorité indépendante d'examen des plaintes en matière de radio-télévision du 24 février 2012 (b. 643)

http://www.ubi.admin.ch/x/b_643.pdf

Decision of the Independent Radio and Television Complaints Authority of 24 February 2012 (b. 643)

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