[DE] Saarland Constitutional Court rules that Education Minister's description of NPD Members as "Modern-Day Nazis" and "The Brown Mob" does not violate Constitution

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In a ruling of 8 July 2014 (case no. Lv 5/14), the Verfassungsgerichtshof des Saarlandes (Saarland Constitutional Court - SVerfGH) decided that a Bundesland's education minister is allowed to describe supporters of a legitimate, extreme right-wing German political party as "the brown mob" and "modern Nazis" at a school anti-racism event.

Even though the remark in the case at hand was made at an event, the court's decision is also relevant to comments made by politicians about parties and their members on television or in other audiovisual media.

Saarland's education minister had attended an event at the main studio of Saarländischer Rundfunk (Saarland broadcasting corporation) in Saarbrücken on 21 May 2014. The event was held to mark the 10th anniversary of the "Schule ohne Rassismus - Schule mit Courage" ("Schools without racism, schools with courage") project, in which schoolchildren were encouraged to fight xenophobia. In his welcoming speech, the minister said, among other things, that the members of the National Democratic Party of Germany (NPD) were "modern-day Nazis" and "nothing other than the reincarnation of the former Nazis, who used to exclude and murder more people than just the Jews." He also stressed that society should "keep saying no if this mob brings its ideas out into the open again, if this brown mob climbs back up again." Both the event itself and the minister's speech were reported in the media.

The NPD claimed that the minister's speech, given during the European and local election campaign, had violated both the principle of equal opportunities for political parties in elections, enshrined in Article 21(1)(1) of the Grundgesetz (Basic Law - GG) in conjunction with Article 63(1) of the Saarländische Verfassung (Saarland Constitution - SVerf), and the obligation of State neutrality enshrined in Articles 60(1) and 61(1) SVerf. It argued that the minister had unlawfully interfered in the political debate and wilfully belittled the NPD by likening it to the National Socialists.

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The education minister, meanwhile, claimed that it had been a one-off, project-related speech that he had given as part of his duties as the minister for education and culture. Moreover, the elections had already taken place.

The SVerfGH rejected the NPD's complaint against the Saarland education minister and accepted the minister's arguments. It explained that the subject-matter of the speech at the event in question had not been the NPD's quest to win votes, but the need for young people to promote tolerance in civil society. It was true that the use of the terms "mob", "brown mob" and "modern-day Nazis" had negative connotations and were disparaging of NPD members. However, by giving the speech, the minister had acted in accordance with his constitutional responsibilities and duties, which included the duty to promote the principle of non-discrimination enshrined in Article 21 of the European Union Charter of Fundamental Rights and Article 14 of the European Convention on Human Rights. Furthermore, the NPD itself did not engage in moderate, pertinent political debate with other parties and State bodies, but repeatedly made disparaging and disdainful statements about them. If party members behaved in this way, they could not expect State bodies to be restrained in the language they used to describe them.

In its decision, the SVerfGH also expressly referred to a recent ruling (case no. 2 BvE 4/13) of the Bundesverfassungsgericht (Federal Constitutional Court - BVerfG) of 10 June 2014. The BVerfG had considered that comments by the Federal President about the NPD as a legitimate political party were only unlawful if they went beyond the realms of a pertinent debate and could be described as offensive abuse. The Constitution was therefore not violated if the Federal President called NPD members "nutters", "ideologists" or "fanatics", since these were collective terms for people who did not understand history and who, ignoring the devastating consequences of National Socialism, held extreme right-wing, nationalistic and anti-democratic beliefs.

Entscheidung des Verfassungsgerichtshofes des Saarlandes, Lv 5/14, 8.7.2014

http://www.verfassungsgerichtshof-saarland.de/verfghsaar/dboutput.php?id=314

Decision of the Saarland Constitutional Court, Lv 5/14, 8 July 2014

Entscheidung des Bundesverfassungsgerichts, 2 BvE 4/13 vom 10. Juni 2014, Absatz-Nr. (1 - 33)

http://www.bundesverfassungsgericht.de/entscheidungen/es20140610_2bve000413.html

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Decision of the Federal Constitutional Court, 2 BvE 4/13, 10 June 2014, para. 1 - 33

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