[DE] Obligation for commercial TV stations to broadcast a regional programme

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The commercial television broadcaster Sat.1 must continue to broadcast the Hessian regional programme operated by the external provider TV Illa GmbH. This was decided by the first chamber of the Verwaltungsgericht Kassel (Kassel Administrative Court) in a judgment of 1 December 2015 (Case 1 K 618/13.KS). In reaching this decision, the Court dismissed the commercial broadcaster's complaint against the extension of the broadcasting licence granted by the Hessische Landesanstalt für privaten Rundfunk und neue Medien (Hessian regional commercial broadcasting and new media authority - LPR).

In Germany, section 25(4) of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement - RStV) obliges the two commercial TV stations with the widest national reach to broadcast regional window programmes. The purpose of this provision is to prevent the development of a dominant influence on public opinion and to ensure diversity. Sat.1 is subject to this rule. The regional window broadcast by Sat.1 is the programme "17:30 Sat.1", the five editions of which are produced by different companies. TV Illa has produced the Hessian regional programme since 2004. The LPR extended its licence in October 2012. After the LPR had dismissed the commercial broadcaster's objection, the latter took legal action against the extension in May 2013. Sat.1 accused the LPR of making formal and substantive legal errors, pointing out that there had been no official invitation to tender for the operation of the regional window. In addition, senior Sat.1 executives voiced fundamental doubts about the constitutionality of the relevant rule of the RStV, stating that it was questionable whether the rule was compatible with freedom of broadcasting enshrined in Article 5(1) of the Grundgesetz (Basic Law).

However, the Administrative Court judges did not share these concerns. In a brief oral statement of their reasons, the President of the 1st Chamber said the challenged decision could not be faulted either formally or in terms of substantive law. However, the Court allowed an appeal to the Hessisches Verwaltungsgerichtshof (Hessian Administrative Court) owing to its fundamental importance.

Sat.1 will exercise this right. In response to an enquiry, a spokeswoman for Sat.1 stated: "This confirms us in our view that that these matters, especially the constitutional issue, must be referred to the highest court for a decision. We will

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now initially await the written reasons for the judgment, but we already expect to be appealing against the decision". On the other hand, LPR Director Joachim Becker said in a press release: "I welcome the Court's decision, which proves that the Hessische Landesmedienanstalt (Hessian Regional Media Authority) took the correct decision. It is, of course, important for viewers that the journalistically high-quality regional window produced jointly for Hessen and Rhineland Palatinate be allowed to continue operating".

Pressemitteilung des VG Kassel, 2. Dezember 2015

https://vg-kassel-justiz.hessen.de/irj/VG_Kassel_Internet?rid=HMdJ_15/VG_Kassel_Internet/sub/d3a/d3a1d4f4-fba3-1517-9cda-a2b417c0cf46,,,11111111-2222-3333-4444-100000005003%26overview=true.htm

Press release of the Kassel Administrative Court, 2 December 2015

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