# [DE] Depiction of violence in Ultimate Fighting formats: Bavarian authority lodges constitutional complaint

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The Bayerische Landeszentrale für neue Medien (Bavarian New Media Authority - BLM), one of 14 German regional media authorities which licenses and monitors private radio and television services in Bavaria, has lodged a constitutional complaint against two Bavarian court rulings in which its decision to ban the broadcast of various Ultimate Fighting programmes on German television had been declared unlawful.

The case concerns various broadcasting formats featuring the Ultimate Fighting Championship (UFC), a well-known US mixed martial arts organisation owned by the Las Vegas-based American sports promotion company Zuffa LLC. UFC events and competitions, in which fighters from different martial arts regularly compete against each other, are broadcast on television, sometimes in edited form, including on the FOX network in the United States of America. Until 2010, UFC series such as “The Ultimate Fighter”, “UFC Unleashed” and “UFC Fightnight” were broadcast by German channel Deutsches Sportfernsehen (DSF, now called sport1), with approval granted by the BLM most recently in 2009. However, in 2010, the BLM banned the broadcasts on the grounds that they had a high potential to depict violence in an explicit and graphic way, infringing the guiding principles of public service broadcasting in Bavaria. The broadcaster DSF had complied with this decision, but Zuffa LLC had disputed the ban and had actions upheld by the Verwaltungsgericht München (Munich Administrative Court, decision of 9 October 2014, Case no. M 17 K 10.1438) in 2014 and by the Bayerische Verwaltungsgerichtshof (Bavarian Administrative Court, decision of the 7th chamber of 20 September 2017, Case no. B 16.1319) in 2017.

In its judgment, the Bavarian Administrative Court ruled that, in view of the freedom of broadcasting guaranteed under Article 5 of the Grundgesetz (Basic Law - GG), with programming freedom at its core, and the freedom to exercise a profession enshrined in Article 12 GG, the BLM was not entitled, for content-related reasons, to take direct action against individual formats of an approved television programme and to require changes to be made without the relevant statutory authorisation. This was true even if the BLM was correct in its opinion that the programme infringed programming principles because it glorified violence and was harmful to minors. According to the court, no suitable authorisation had been granted in this case. Even the fact that, according to Article 111a(2) sentence 1 of the Bayerische Verfassung (Constitution of Bavaria -

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BV), broadcasting in Bavaria was operated under public responsibility and by a public-law institution, did not give the BLM the power to take direct action against an approved programme if it identified an infringement of programming principles.

The BLM has now lodged a constitutional complaint on the grounds that the courts' decisions undermine the principle of public mandate enshrined in Article 111a of the Bavarian Constitution, according to which broadcasting in Bavaria is operated under public responsibility and by a public-law institution.

### *Pressemitteilung der BLM vom 23. Januar 2019*

https://www.blm.de/infothek/aktuell/aktuell-2019-01-23-rechtsstreit-um-ultimate-fighting-geht-weiter-blm-erhebt-verfassungsbeschwerde-11186

*BLM press release of 23 January 2019*

### *Verwaltungsgerichtshof (Urteil des 7. Senats vom 20. September 2017, Az.: B 16.1319)*

http://www.vgh.bayern.de/media/bayvgh/presse/urteil_ufc_7._senat_vom_20.09.2017.pdf

*Bavarian Administrative Court, decision of the 7th chamber of 20 September 2017, Case no. B 16.1319*

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