[DE] Cypriot pornographic website ban confirmed

IRIS 2022-9:1/20

Sebastian Klein
Institute of European Media Law

On 7 September 2022 (case nos. 13 B 1911/21, 13 B 1912/21 and 13 B 1913/21), the North-Rhine Westphalia *Oberverwaltungsgericht* (Higher Administrative Court) prohibited the distribution of pornographic content by two Cypriot website providers. It therefore confirmed first-instance rulings issued by the *Verwaltungsgericht Düsseldorf* (Düsseldorf Administrative Court) on 30 November 2021 (case no. 27 L 1414/20). The importance of protecting minors was the main factor behind the court's decision.

According to the first-instance rulings, the *Landesanstalt für Medien Nordrhein-Westfalen* (North-Rhine Westphalia media authority – LfM NRW) had correctly lodged an objection against three openly accessible pornographic websites operated by the two providers and prohibited their distribution in Germany, unless the pornographic content was removed or a closed user group was created in order to ensure that only adults could view it. The *Verwaltungsgericht Düsseldorf* therefore rejected the providers' application for interim measures. The *Oberverwaltungsgericht* has now dismissed appeals against these decisions on the grounds that German law protecting minors in the media applied even to websites operated in another European Union member state.

According to the court's provisional assessment, the ban on the distribution of pornographic content without a suitable age verification system did not raise any concerns under constitutional law, even though decisions on whether telemedia content was compatible with the *Jugendmedienschutz-Staatsvertrag* (State Treaty on the Protection of Minors in the Media – JMStV) were taken solely by the *Kommission für Jugendmedienschutz* (Commission for the Protection of Minors in the Media – KJM), which had been set up jointly by the *Länder*.

The court found that the KJM's involvement in the decision-making process did not infringe the principles of federalism or democracy. Although it was responsible for ensuring that decisions relating to youth protection in the media were consistent throughout the country, the KJM – an expert body whose members were not bound by instructions when fulfilling their tasks – acted as an organ of the individual *Landesmedienanstalt* (state media authority). The broad decision-making powers assigned to it were justified on account of the characteristics of the telemedia supervision system, which was designed to limit state interference.

© European Audiovisual Observatory (Council of Europe) 2026

The court considered that the regulation of content harmful to young people required evaluative decisions to be taken in a process that was open to political exploitation aimed at influencing free communication. The principle of separation from the state that applied to the supervision of broadcasting should therefore be extended to the telemedia sector.

The *Oberverwaltungsgericht* also dismissed the website providers' claim that the ban infringed the so-called country of origin principle, under which website providers based in an EU member state are only subject to the rules in their own country. The *Verwaltungsgericht* had worked on the basis that free access to pornographic websites could cause serious harm to children and adolescents. In their appeals, the providers had failed to make a serious argument against this point. Since the state media authority had sufficiently included Cyprus, an EU member state, in the measures, it did not need to wait for standardised youth protection laws to be implemented in Cyprus. If one member state chose to use different protection methods to another, this should not affect the assessment of the proportionality of their respective national provisions. Rather, interference with the Cypriot providers' freedom to provide services, protected under EU law, was less important than the need to protect young people.

Pressemitteilung des Oberverwaltungsgericht des Landes Nordrhein-Westfalen

https://www.ovg.nrw.de/behoerde/presse/pressemitteilungen/47_220908/index.php

Press release of the North-Rhine Westphalia Higher Administrative Court

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026