[DE] Administrative Court overturns media authority decision on TV programme's human dignity violation

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In a ruling of 11 October 2023 (case no. 11 A 185/21), the *Schleswig-Holsteinische Verwaltungsgericht* (Schleswig-Holstein Administrative Court) overturned a decision of the *Medienanstalt Hamburg/Schleswig-Holstein* (Hamburg/Schleswig-Holstein media authority – MA HSH) alleging a breach of human dignity and programming guidelines by private broadcaster Sat.1. The MA HSH had ruled that a sequence in the real-life documentary series "*Lebensretter hautnah – Wenn jede Sekunde zählt*" showing a person who had suffered a serious seizure had been voyeuristic and sensationalist, violating human dignity under Article 4(1)(1)(8) of the German *Jugendmedienschutzstaatsvertrag* (state treaty on the protection of minors in the media – JMStV). However, the *Verwaltungsgericht* ruled that the sequence had not breached human dignity and overturned the decision.

The TV series "*Lebensretter hautnah*" follows the work of paramedics in Germany, showing video footage of emergencies and the paramedics' response in an edited series format. The episode broadcast on 2 November 2020 showed a man who had suffered a seizure in a supermarket. In a sequence lasting around 15 minutes, unpixellated images of the unconscious man's motionless, bloody face were shown, with foam around his mouth, as the paramedics tried to save him. Viewers could also see the man lying helpless on the floor with his upper torso exposed. Audio and video footage of his journey to hospital was also shown. The MA HSH believed this infringed Article 4(1)(1)(8) JMStV, which states that broadcast and telemedia content is illegal if it violates human dignity, especially by presenting people who are dying or those who are, or were, exposed to serious physical or mental suffering while reporting actual facts without any justified public interest in such form of presentation or reporting being given. The voyeuristic and sensationalist depiction of the man's suffering was considered by the MA HSH as an example of such unlawful content. The scenes of suffering and close-up shots of the man's face in particular had been shown, with commentary and a variety of background music, not once but several times. The footage of the paramedics' work had also been interrupted with other storylines in order to create tension among the viewers, so the sequence had not shown the event as it had actually unfolded. The man's suffering had therefore been deliberately dragged out for dramatic effect, even though it could easily have been shown in a different way. Although the programme's portrayal of the important, exhausting work carried out by paramedics was commendable, this could have been achieved without

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showing such gratuitous human suffering. The MA HSH also rejected the broadcaster's argument that the programme had shown a real-life event and was therefore authentic rather than voyeuristic.

However, the *Verwaltungsgericht* disagreed. It held that the scenes in question had not violated human dignity in the manner described in Article 4(1)(1)(8) JMStV. In order to judge if human dignity had been infringed, it was necessary to examine the overall character of the programme. In this case, i.e. the portrayal of paramedics' day-to-day work, the main focus of the programme had not been inhumane, but, first and foremost, a realistic presentation of real events.

The decision is not yet final and is open to appeal for a one-month period.

Pressemitteilung des Verwaltungsgerichts

https://www.schleswig-holstein.de/DE/justiz/gerichte-und-justizbehoerden/OVG/Presse/PI_VG/2023_10_13_Klage_Seven-One_erfolgreich.html

Administrative Court press release

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