# [DE] Court-TV Ban Upheld

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In a judgment of 24 January 2001, the Bundesverfassungsgericht (Federal Constitutional Court - BVerfG) dismissed a complaint by television broadcaster n-tv. The latter had claimed that the ban on television coverage of court proceedings contained in Section 169.2 of the Gerichtsverfassungsgesetz (Code of Judicial Organisation - GVG) was unconstitutional.

Section 169.2 of the GVG bans all sound and radio/ picture recordings intended for publication.

The Constitutional Court explained its decision firstly by pointing out that Article 5.1.1 of the Grundgesetz (Basic Law - GG), which guarantees the freedom of information, did not entitle anyone to demand that an information source be made public. Therefore, the State legitimately determined how access to State processes should be granted and the extent to which such sources of information should be open. However, the State's right to lay down these conditions on access should still be judged against the Basic Law.

The idea that oral proceedings should be held in public should therefore not only tally with this constitutional principle, but also take into account other, opposing interests. When assessing public access to court proceedings, it was necessary to ensure that the aims of allowing the public to monitor those proceedings and of providing access to information were guaranteed. This included the right of media representatives to attend trials in person. It also meant that the media should be allowed to report on court proceedings in accordance with their status. The Court stated that television recordings did not guarantee greater authenticity, as claimed by the complainant, because the pressure of competition between TV broadcasters meant that they often failed to give an accurate account of proceedings. On the other hand, the contrary interests of other parties should be given greater precedence. In particular, personality rights, the right of defendants and witnesses to personal privacy, the right to a fair trial and the right to establish the truth without interference would all be threatened, if not destroyed, if court proceedings were televised. The legislator was not obliged to authorise exceptions to the strict ban on recordings for particular types of case or phases of proceedings. Since there were risks in all phases and all cases, the practical effects and dangers in individual trials were hard to predict. Therefore, it was impossible to create a legal regulation that took every aspect into account.

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However, this final point is not consistent with the view of three judges who consider a total ban to be excessive. They point to the increasing importance of the audiovisual media and claim that the Constitution's requirement of media access is not being fulfilled, since the reasons for restricting access are not predominant in every phase and type of proceedings. The legislator is therefore expected to authorise pilot projects as a first step, should a suitable opportunity arise.

The Landesmedienanstalten (Land media authorities - LMS), which are responsible for monitoring commercial television, are currently checking whether television broadcasts of foreign court proceedings are legally admissible. Such transmissions might breach the personality rights of the people involved and thus contravene German law.

***Urteil des Bundesverfassungsgerichts vom 24. Januar 2001, Az.: 1 BvR 2623/95, 1 BvR 622/99***

*Judgment of the Bundesverfassungsgericht (Federal Constitutional Court), 24 January 2001, case nos. 1 BvR 2623/95, 1 BvR 622/99*

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