[DE] BGH on Press Information Rights

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In a decision of 10 February 2005 (case no. III ZR 294/04), the Bundesgerichtshof (Federal Supreme Court - BGH) explained that the right of the press to information covers legal entities under private law, provided the State exercises significant influence over the entity concerned and uses it to fulfil its public remit.

The case concerned a newspaper publisher's right to information concerning a local energy company. Under the niedersächsische Pressegesetz (Lower Saxony Press Act), authorities are obliged to provide members of the press with the information they need to fulfil their public duties. The BGH therefore had to decide whether the company should be treated as an "authority" in the sense of this Act. It ruled that it should, since more than 70% of the ordinary share capital of the company, which was set up as a limited company under private law, was owned directly or indirectly by local authorities.

This decision on the definition of an "authority" under press law was welcomed by representatives of press organisations as a step towards greater transparency in the public utility sector.

The press information rights enshrined in regional laws may also be exercised by members of the audiovisual media by means of referral provisions.

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http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=pm&Datum=2005&Sort=3&nr=31630&pos=2&anz=25

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