[DE] Courts Back Journalists' Right to Information

IRIS 2007-2:1/15

Max Schoenthal
Berlin

Two recent court decisions have significantly strengthened the position of German journalists who request information from official bodies and companies.

According to a ruling by the *Verwaltungsgericht Arnsberg* (Arnsberg Administrative Court) of 12 December 2006, the provision on the right of the press to information contained in the *Landespressegesetz Nordrhein-Westfalen* (North Rhine-Westphalia Press Act) represents a final regulation, which supersedes municipal law provisions on fees and charges (case no. 11 K 2574/06). A local authority decision to charge a journalist EUR 24.60 to answer questions, based on an estimated processing time of 33 minutes, was overturned as illegal.

Under the regional Press Acts in all the *Bundesländer*, journalists are entitled to information from the state authorities. In the audiovisual sector, some laws contain special rules on media representatives' rights to such information. For example, the Baden-Württemberg Press Act and the Saarland Media Act stipulate that the authorities must give broadcasters the information they need to fulfil their public service remit. In *Länder* whose broadcasting laws do not include such provisions, reference is made to the corresponding rules for press journalists. In North Rhine-Westphalia, for example, Art. 26 of the Press Act states that the provision of Art. 4 of the Press Act, which covers the press, also applies to broadcasting. The exact form, content and extent of the authorities' duty to provide information depend on what appears necessary in order for the right to information to be granted in the individual circumstances. Information can be provided in the form of a press conference, press statement, regular publications, or as extracts from official records. However, an authority may decide only to issue information in certain forms. Complicated facts may need to be explained in writing if there is a possibility that oral information could lead to misunderstandings, omissions or miscommunication. In individual cases, the authorities' discretion may even be reduced to such a degree that the press are allowed to inspect the official records themselves.

As far as content is concerned, the right of the press to information was defined and broadened in a recent decision of the *Bayerische Verwaltungsgerichtshof* (Bavarian Administrative Court) (case no.: M 22 K 04.4414). The court had to decide whether the right to information also applied vis-à-vis public companies. The judges ruled that the right to information should take priority over the duty of discretion of the board of the *LfA Förderbank Bayern* . If public funds were used to

© European Audiovisual Observatory (Council of Europe) 2026

carry out state responsibilities, there was a justified public interest in how those funds were actually used and the press and public were therefore entitled to the relevant information. There was no reason why this should not also apply to private legal entities involved in state activity.

Entscheidung des Verwaltungsgerichts Arnsberg vom 12. Dezember 2006 (Az.: 11 K 2574/06)

Decision of the Arnsberg Administrative Court of 12 December 2006 (case no.: 11 K 2574/06)

Entscheidung des Bayerischen Verwaltungsgerichtshofs vom 7. August 2006 (Az.: M 22 K 04.4414)

http://www.landesanwaltschaft.bayern.de/documents/05a02582b.pdf

Decision of the Bavarian Administrative Court of 7 August 2006 (case no.: M 22 K 04.4414)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026