[DE] Court Confirms Licence Fee Obligation for Work PCs with Internet Access

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In a ruling of 12 March 2009 (case no. 7 A 10959/08.OVG), the *Oberverwaltungsgericht Rheinland-Pfalz* (Higher Administrative Court of Rhineland-Palatinate - OVG) dismissed the complaint of a lawyer, who had appealed against decisions taken by Südwestrundfunk (SWR) that he should pay a licence fee for a PC with Internet access that he used for his work.

In the previous instance, the *Verwaltungsgericht Koblenz* (Koblenz Administrative Court - VG) had ruled in favour of the lawyer on 15 July 2008 and overturned SWR's decisions to impose the monthly licence fees on the grounds that the abstract notion of being technically able to receive broadcasts did not necessarily mean that the person concerned should be considered a recipient of broadcast services.

However, the OVG upheld SWR's appeal, explaining that a PC with Internet access was a new kind of broadcast-receiving device and that, under the *Rundfunkgebührenstaatsvertrag* (Inter-State Agreement on broadcast licence fees), the applicability of licence fees did not depend on actual use, but only on possession of a reception device. The OVG added that, since the device could receive broadcasts, it met the necessary objective purpose, which could be assumed to be the case even for devices used in non-private situations if, as in the current case, there was no other traditional monofunctional device for receiving broadcasts at the address concerned. It also rejected reservations linked to constitutional law and found that the current legal format of the licence fee rules for PCs with Internet access was sufficiently clear as well as a suitable, reasonable means of preventing people from evading the licence fee and safeguarding the financing of public service broadcasting. It therefore considered the licence fee obligation for such PCs to be a reasonable impediment to access to "sources of information available free of charge on the Internet", which did not infringe the freedom of information protected by the Constitution.

The OVGagreed that the decision could be appealed before the *Bundesverwaltungsgericht* (Federal Administrative Court - BVerwG) because of its fundamental importance.

Urteil des OVG Rheinland-Pfalz vom 12. März 2009

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http://www3.justiz.rlp.de/rechtspr/DisplayUrteil_neu.asp?rowguid={73C226C3-B6B0-407C-BFE5-311F29BAE097}

Ruling of the Higher Administrative Court of Rhineland-Palatinate of 12 March 2009

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