[DE] Administrative Court Rules on Applicability of IFG NRW to WDR

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In a ruling on 20 November 2009, the *Verwaltungsgericht Köln* (Cologne Administrative Court - VG) decided that *Westdeutscher Rundfunk* (WDR) is not obliged to provide information to citizens under the North Rhine-Westphalia *Informationsfreiheitsgesetz* (Freedom of Information Act - IFG NRW).

The proceedings followed a complaint lodged on the basis of the IFG NRW by a freelance journalist against the broadcaster's refusal to disclose information. The plaintiff had wanted to know which companies WDR cooperated with and how much money was involved. The journalist had requested this information because he suspected that the broadcaster, which is funded by the licence fee, commissioned work from companies which employed members of its own *Rundfunkrat* (Broadcasting Council).

WDR itself had not disputed the applicability of the IFG NRW, but refused to disclose the information on the grounds that, regardless of freedom of information, it was not entitled to reveal trade secrets and internal company information.

The *VG Köln* ruled that the IFG NRW did, in principle, apply to WDR as a public body under the legal supervision of the *Land*. However, this did not give the plaintiff the right to obtain information from the defendant because his request did not concern a State administrative activity rooted in public law. Such activities would include any State activity, regardless of its legal form. The only condition was that the activity should be attributable to the State. However, the defendant only carried out such activities in the areas in which it operated with sovereign authority, i.e., the collection of the licence fee and the granting of broadcast time to third parties. The financial activity referred to by the plaintiff did not fall into this category and therefore did not represent an "administrative activity" in the sense of the IFG NRW.

Urteil des VG Köln vom 20. November 2009 (Az. 6 K 2032/08)

http://www.justiz.nrw.de/nrwe/ovgs/vg_koeln/j2009/6_K_2032_08beschluss20091119.html

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Ruling of the Cologne Administrative Court of 20 November 2009 (case no. 6 K 2032/08)

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