[DE] OVG Rules WDR Must Provide Information under NRW Freedom of Information Act

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In a ruling of 9 February 2012, the Oberverwaltungsgericht Münster (Münster Administrative Appeal Court - OVG) overturned the decision of the lower-instance court (see IRIS 2010-2/11) and ruled that Westdeutscher Rundfunk (WDR) is, in principle, obliged to provide information to a journalist under the North Rhine-Westphalia Informationsfreiheitsgesetz (Freedom of Information Act - IFG NRW).

The procedure followed a journalist's request to WDR for information about which companies it 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 that 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 it was not entitled to reveal trade secrets and internal company information.

After the first-instance decision, an amendment to the WDR-Gesetz (WDR Act) was adopted, in which the legislator expressly confirmed the applicability of the IFG NRW to WDR, provided no journalistic information was involved.

In the OVG Münster's view, WDR is not obliged to disclose information to the press under the Pressegesetz NRW (NRW Press Act). However, under the IFG NRW in conjunction with the WDR-Gesetz, it must provide access to information that does not allow conclusions to be drawn about its editorial secrets and programming mandate. This guarantees the basic right to freedom of reporting. Providing access to this information does not prevent public service broadcasters from fulfilling their traditional remit and competing with private broadcasters.

The court therefore instructed WDR to revise its decision on the information request and, in particular, to carefully verify the precise scope of the information to which the journalist was entitled and any obstacles to the provision of that information.

Urteil des OVG Münster vom 9. Februar 2012 (Az. 5 A 166/10)

http://www.justiz.nrw.de/nrwe/ovgs/ovg_nrw/j2012/5_A_166_10urteil20120209.html

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Ruling of the OVG Münster of 9 February 2012 (case no. 5 A 166/10)

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