[DE] Berlin Administrative Court Denies Journalist's Right of Access to Doping Study

IRIS 2013-9:1/11

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In a summary procedure, the Verwaltungsgericht Berlin (Berlin Administrative Court - VG) decided on 5 September 2013 (case no. VG 27 L 217.13) to refuse a request to inspect a study commissioned by the Bundesministerium des Innern (Federal Interior Ministry - BMI). It ruled that press information rights did not include such extensive access to official documents.

A journalist from a daily newspaper had contacted the Bundesministerium des Innern and, as a member of the press, asserted a claim to receive information under Article 4(1) of the Berliner Pressegesetz (Berlin Press Act - BerlPrG), which obliges the authorities to disclose to journalists any information they need to fulfil their public remit. The same information rights are granted to broadcast journalists under the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement).

The BMI refused to allow the journalist to access the study "Doping in Deutschland von 1950 bis heute" (Doping in Germany from 1950 to the present day), which is over 800 pages long. The VG Berlin confirmed the BMI's decision since, in principle, Article 4(1) BerlPrG only covers information about concrete factual or legal matters. A journalist would therefore need to ask specific questions, which the authority would then have to answer. However, the right to information did not include a comprehensive right to view files or documents in their entirety. The journalist's request to view the study could not be interpreted as a concrete question about the study's contents, since the authority could have answered such a question by summarising the contents and thereby fulfil its obligation under Article 4(1) BerlPrG without granting full access to the study.

Insofar as the journalist's application for a temporary order was based on Article 1(1) of the Informationsfreiheitsgesetz (Freedom of Information Act - IFG), the court ruled that the urgency requirement under Article 123(1) of the Verwaltungsgerichtsordnung (Administrative Court Code of Procedure - VwGO) was not met. Although in accordance with Article 1(2) the claim under the IFG expressly covered the right of inspection and access to information, Article 7(5)(2) IFG gave the authorities a one-month period in which to process such requests, a period that had still not expired when the decision was taken.

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Pressemitteilung des VG Berlin vom 5. September 2013

http://www.berlin.de/sen/justiz/gerichte/vg/presse/archiv/20130905.1005.388867.html

Press release of the VG Berlin (Berlin Administrative Court) of 5 September 2013

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