[DE] Federal Administrative Court grants press the right to names of people involved in court proceedings

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If a member of the press requests information about the names of people who participated in a court procedure, such a request should, in principle, be granted, according to a decision issued by the Bundesverwaltungsgericht (Federal Administrative Court - BVerwG) on 1 October 2014 (case no. 6 C 35.13).

An editor for the magazine “Anwaltsnachrichten Ausländer- und Asylrecht” instigating the proceedings after asking the director of the Amtsgericht Nürtingen (Nürtingen District Court - AG Nürtingen) to send him a copy of a criminal court decision. The AG Nürtingen then sent him a copy of the ruling in which the names of all the people involved in the case had been blanked out. These included the names of the judge and jurors, the public prosecutor’s representatives, the defence counsel and the court registrar.

The director of the AG Nürtingen subsequently gave the editor the name of the judge, but refused to disclose the names of the other participants. The journalist filed an appeal against this decision with the Verwaltungsgericht Stuttgart (Stuttgart Administrative Court - VG Stuttgart), which fully rejected the appeal in a ruling of 28 April 2012 (case no. 1 K 57/12). The editor’s appeal against this decision was partially upheld by the Verwaltungsgerichtshof Mannheim (Mannheim Administrative Court of Appeal - VGH Mannheim) on 11 September 2014 (case no. 1 S 509/13). The VGH Mannheim ruled that the defendant, the Land of Baden-Württemberg, should also give the plaintiff information on the names of the jurors, but not of the other participants. It ruled that the fundamental right to privacy of the other participants took precedence over the right of the press to information, which was also a fundamental right.

The editor appealed to the BVerwG against the part of the VGH Mannheim’s decision which confirmed the VG Stuttgart’s dismissal of his appeal in the first instance. The BVerwG granted the plaintiff’s claim to information regarding the names of the public prosecutor and defence counsel. When weighing up the relevant fundamental rights, the right of the press to information prevailed over these individuals’ right to privacy, since the public prosecutor and defence counsel, as organs for the administration of justice, were in the public eye when they took part in court proceedings. In view of the importance of the principle that court proceedings conducted under the rule of law should take place in public, the

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journalist's request for the names of the public prosecutor and defence counsel should be granted. The only exception to this rule applies if the lawyers involved in a court procedure are likely to suffer serious harassment or a threat to their safety if they are named. However, this was not the case here.

The BVerwG justified its decision by stating that the press can itself determine what information it needs to prepare a report on a court procedure. The state may not influence journalists' examination of the relevance of this information. However, the journalist must be able to explain clearly the factual background to a request for information. If a request is made purely at random, the state authority is not obliged to reveal the names of the people involved in the proceedings. For this reason, the BVerwG rejected the plaintiff's appeal concerning the name of the court registrar.

BVerwG 6 C 35.13 - Urteil vom 01. Oktober 2014

http://www.bverwg.de/entscheidungen/verwandte_dokumente.php?ecli=011014U6C35.13.0

Decision of the Federal Administrative Court of 1 October 2014 (BVerwG 6 C 35.13)

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