[DE] Frankfurt Appeal Court: RT DE cannot prevent ex-employee publishing book on its working practices

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In interim rulings issued on 19 May 2022, the *Oberlandesgericht Frankfurt am Main* (Frankfurt am Main Appeal Court – OLG) rejected two appeals lodged by the provider of the German language version of the Russian TV broadcaster RT (RT DE), seeking a ban on the publication of the first and second editions of a book by a former RT DE employee acting as a whistle-blower. In the book, the author deals, in particular, with the broadcaster's alleged involvement in undercover investigations by the Russian government in relation to the opposition leader Alexei Navalny and is critical of RT DE's working methods from an employee's perspective. The court decided that he was entitled to publish the book under the freedom of expression and information.

Between 2018 and 2020, the defendant had worked as a reporter for RT DE, initially on a freelance basis and later as an employee. In early 2021, he published a book on the Internet, criticising the broadcaster's work, political orientation and specific journalistic activities, as well as individual RT DE employees. He described, *inter alia*, a "special mission" he had been given by the broadcaster while Navalny had been receiving medical treatment at the Charité hospital in Berlin, after a failed attempt to poison him. RT DE wanted to ban the publication of the entire first and second editions of the book, or at least of individual statements, images and screenshots of employees' chat histories, claiming that its privacy rights had been breached. The *Landgericht Frankfurt am Main* (Frankfurt am Main District Court), hearing the initial case under summary proceedings, prohibited the ex-employee from repeating individual statements that it considered to be unproven factual assertions. However, it decided that the publication of the vast majority of the disputed statements and images, or even of the entire book, should not be prohibited because, as opinions expressed by the author, they were protected under the freedom of expression. The Frankfurt Appeal Court agreed. It rejected the idea of banning the publication of the whole book, as well as 63 individual statements, with reference to various considerations linked to employment contracts and copyright (which also did not support RT DE's case), as well as the substantial public interest in the reporting of these matters. It was particularly important to inform the German public that a German media company with close business connections to Russia may have been involved in undercover investigations relating to a critic of the Russian government. It was true that the allegations, which included criticism of the company's organisation, might have infringed on the broadcaster's privacy rights.

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However, such an infringement was outweighed by the author's freedom of expression and the public's right to freedom of information. Although the book was highly critical of the lack of professional competence of the broadcaster's employees, their political affiliation to extreme right- or left-wing groups in Germany and abroad, and so-called "Corona deniers", the broadcaster had to accept this as an admissible use of freedom of expression in the general context. The OLG Frankfurt also rejected the broadcaster's claim to an overriding right to confidentiality in so far as its former employee had been expressing his view, based on his own personal experience, that he had participated in investigations in the Navalny case on behalf of the Russian state.

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https://ordentliche-gerichtsbarkeit.hessen.de/pressemitteilungen/deutschsprachiges-tochterunternehmen-eines-russischen-medienkonzerns-kann

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