[DE] Minden Administrative Court rules on YouTube blogger's right to press freedom

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In a ruling issued in summary proceedings on 16 August 2023, the *Verwaltungsgericht Minden* (Minden Administrative Court – VG) decided that a YouTube blogger who wishes to report on a court case concerning himself is entitled to protection under the freedom of the press. The court also allowed him to take the equipment that he needed to produce reports into the court building.

The decision concerned a court procedure involving the YouTube blogger at the *Landgericht Bielefeld* (Bielefeld District Court – LG), which he wanted to report on via his YouTube channel. To do this, he intended to take two smartphones, two tripods and a laptop into the courtroom in order to make recordings before and after the hearing, as well as during breaks in the proceedings. However, the LG refused to grant him permission to take photographs and make video recordings inside the court building. The blogger assumed that this, along with a ban on cameras mentioned on the court's website, meant that he would not be allowed to take his equipment with him into the courtroom. He asked the VG to overturn this decision in summary proceedings.

The Minden VG ruled that the YouTube blogger's right to report on the case was directly derived from Article 5(1) sentence 2 of the *Grundgesetz* (Basic Law – GG), which guaranteed freedom of the press. Article 5(1) sentence 2 GG was worded in such a way that it applied to all media rather than just the press, broadcasts and films. The provision therefore covered not only media that had already been known about when the GG was drawn up, but also every new format that had emerged since that time, including digital mass communication. All new media that were neither broadcasts nor films enjoyed the same protection as the press. This applied not only to digital versions of traditional newspapers (online newspapers), but also to other web-based news offerings, such as blogs or video platforms including YouTube. The wording of the rule was therefore "open to development".

However, to be protected under press freedoms, information needed to be shared in a structured way. Comments posted in a chat room, for example, did not fall under freedom of the press, but under freedom of expression. The need for structure was nonetheless met by a YouTube blogger.

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A YouTube blogger could be treated as a member of the press even if he/she did not hold a press pass. Protection under freedom of the press was not dependent on possession of a press pass.

Finally, the LG should not have prohibited the YouTube blogger from taking recording devices into the courtroom. Members of the press should be allowed to bring the equipment they need for their reporting into a court building. Under freedom of the press, unimpeded research and other press-specific methods of obtaining information, including taking photographs and video recordings, were protected. Furthermore, a member of the press could not simply be told that he/she could only film outside a court building or produce written reports about a case.

The district court president's claim that the press were not allowed to report on their own cases was also refuted. A member of the press who intended to report on a court case in which he/she himself/herself was a party was not excluded from press freedoms. Rather, the press should be able to decide what to report on. This was part of the freedom of press publications enshrined in Article 5(1) sentence 2 GG, under which the press were free to determine what to report on and which articles to publish. The press code did not prohibit the press from reporting on their own court cases.

Last, but not least, the Bielefeld LG had argued that a press article should only be published if it was in the public interest, which it had claimed was not the case here. However, the VG ruled that the existence (or otherwise) of such public interest was legally irrelevant.

Verwaltungsgericht Minden, 1 L 729/23, 16. August 2023

http://www.justiz.nrw.de/nrwe/ovgs/vg_minden/j2023/1_L_729_23_Beschluss_20230816.html

Minden Administrative Court, 1 L 729/23, 16 August 2023

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