

Hausfeld Achieves Important Victory for Transparency

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Related Practice Areas: **Consumer Claims**

Ruling in Case No. 17 K 2383/19 of 28 January 2020 by the Hamburg Administrative Court (the Court).

The Court ruled in favor of our client, a Hamburg citizen, supported by the *Gesellschaft für Freiheitrechte* (GFF or Society for Civil Rights) and decided that the *Hamburger Hochbahn AG* (HH AG) is bound by the Hamburg Transparency Act.

Background

The case concerned the creation of barrier-free public transport: the plaintiff requested access to a feasibility study commissioned by the defendant on a barrier-free elevated railway station, which HH AG initially refused to provide. After the plaintiff, with the support of GFF and represented by the lawyers of the Hausfeld law firm, filed a complaint, HH AG published the study under the reservation that it did not feel bound by the legal transparency rules. HH AG had rejected inquiries from interested citizens on similar grounds in the past.

The plaintiff upheld his action, however, wanting to clarify in principle whether the public limited company had to comply with the transparency rules, despite this only relating to the preliminary planning of structural changes to railway stations.

The decision

The Administrative Court confirmed in clear terms that a company under private law which plans and organises the barrier-free expansion of local public transport fulfils public service tasks and is thus directly subject to the applicable information obligations which otherwise only bind the state.

The court declared that it was irrelevant that this is an early planning phase which may not yet have a direct connection to the individual citizen. Freedom of information should enable all citizens to inform themselves about public planning and, if necessary, to influence the project.

In its reasoning, the Administrative Court explained in detail that even where the State entrusts public tasks to private undertakings, information concerning the performance of those tasks must be freely available. According to the court, there must be "no flight of the state from freedom of information to private law".

The ruling is an important success for freedom of information in Hamburg and far beyond, as the underlying norms are also found in a similar or identical manner in state and federal laws.

The proceedings were led by the attorneys Dr. Alex Petrasincu and Dr. Christopher Unseld of Hausfeld Rechtsanwälte LLP as part of a cooperation with the GFF.

The GFF coordinates and finances legal proceedings to defend fundamental and human rights against state violations. It partners plaintiffs with experienced lawyers in order to jointly take legal action against infringements.

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