

Activity Report Freedom of Information 2020/2021

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The Hamburg Commissioner for Data Protection and Freedom of Information (HmbBfDI) looks back on two eventful years in its Activity Report on Freedom of Information 2020/2021 published today. While the legal situation has continued to improve, for the first time the HmbBfDI has formally objected to breaches of their transparency obligations by public bodies and has also made use of its power to bring an action against bodies that are required to provide information. At the same time, the number of procedures in which the HmbBfDI was appealed to increased significantly (323 compared to 130 in the previous reporting period).

First of all, it was very gratifying that the Hamburg Parliament raised transparency to the status of a constitutional good (Art. 56 HmbVerf.). However, the high number of procedures in which citizens called the HmbBfDI shows that in practice access to official information is still often felt to be insufficient. In particular, the processing time often exceeds legal deadlines.

In two cases, the HmbBfDI has for the first time expressed complaints about freedom of information: Both Flughafen Hamburg GmbH and Universität Hamburg fundamentally deny that they are even obliged to provide information. Since Flughafen Hamburg GmbH did not fulfill its obligation to provide information even after the complaint, the HmbBfDI filed a complaint with the Hamburg Administrative Court. Another lawsuit against the University of Hamburg was filed a few days ago. The details of these cases are described in the activity report.

Other cases and court proceedings also related to the indirect state administration or private-law affiliated companies of the Free and Hanseatic City of Hamburg (University Hospital Hamburg-Eppendorf (UKE), Thalia Theater, Hamburger Hochbahn). It is striking and regrettable how statutory information obligations are not taken seriously here.

The activity report also presents the most important decisions in case law on freedom of information law. The HmbBfDI itself, as the body responsible for reporting, was sued several times by companies in the reporting period, e.g. to prevent it from making information on data protection fine procedures accessible.

On the presentation of the activity report 2020/2021, the Hamburg Commissioner for Data Protection and Freedom of Information, Thomas Fuchs: "Strong law, weak practice: This is how the situation of freedom of information in Hamburg can be summarized. Freedom of information instruments can create transparency and trust, especially in times when the population's trust in government action and government institutions is particularly important. It is therefore to be welcomed that the interest of citizens in official information about the background of official actions is growing. This is clearly shown by the large number of applications that deal with the city's digitization projects or the implementation of protective measures against the corona virus. This poses challenges for the Hamburg authorities, but above all for municipal companies, which they must not evade. Especially in 2022, when Hamburg's exemplary transparency law will be 10 years old!"

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