[AT] The Constitutional Court Reviews the Ban on Developing Cable Stations to See If It Has a Constitutional Basis

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The Austrian Constitutional Court (Verfassungsgerichtshof) instigated legal review proceedings with its decision of 21 June 1995. This case should make clear whether cable television companies should be allowed to include their own channels in their network and broadcast them.

According to current regulations, cable television companies may only simultaneously relay received signals and broadcast cable text. Any cable broadcasting activity that goes beyond this is not provided for under §§ 20 I, 24a and 24b II of the broadcasting Regulation with the exception of cable broadcasting activities of the Austrian public broadcasting (ORF).

The appellants in the case before the Constitutional Court are the owners of community broadcasting installations in Austria whose applications for approval of the setting up of active cable stations have been turned down. After an unsuccessful appeal, they now complain that rights guaranteed under constitutional law are being violated. These rights include freedom of expression, equality before the law and the freedom to develop business unhindered. They also raise objections about rights which are violated by the use of anti constitutional laws. The Constitutional Court has also expressed the reservation that the rules, which limit the activity of cable companies, also limit the basic right of broadcasting freedom to an unusual extent. The Court agreed in principle with the idea which had moved the European Court of Human Rights to declare that the monopoly on radio broadcasting held by the ORF was a violation of the Human Rights Convention.

In legal review proceedings the Constitutional Court will now try to ascertain whether and in what way freedom to broadcast should be applied to the field of active and wider-ranging cable broadcasting.

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