[AT] No Automatic Right to Take Part in a Televised Debate

IRIS 2004-8:1/7

Robert Rittler
Gassauer-Fleissner Attorneys at Law, Vienna

Since 2001 responsibility for ruling on the legality of decisions taken by the Bundeskommunikationssenat (Federal Communications Office), the supervisory body for the Austrian public service broadcaster, Österreichische Rundfunk (ORF), has rested with the Verwaltungsgerichtshof (Administrative Court). The Court has been called upon to decide important cases concerning the legality of the ORF 's remit on three occasions since then, including twice in April 2004. In all three cases it confirmed the decisions taken by the Federal Communications Office, which followed the same principles as those applied ever since the 1970s by the body that preceded the Federal Communications Office, the Rundfunkkommission (Broadcasting Commission).

In the first case decided in April 2004 (VwGH 21 April 2004, 2004/04/0240), the Freiheitliche Partei Österreichs (Austrian Freedom Party - FPÖ) claimed that the ORF had violated the Broadcasting Act, and in particular its objectivity and plurality requirement, by failing to invite a representative of the senior citizen members of the Freedom Party to take part in a televised debate involving senior citizen members from the Sozialdemokratische Partei (Social Democratic Party SPÖ) and the Volkspartei (People's Party OVP). The Federal Communications Office dismissed the complaint, and the appeal before the Administrative Court was also thrown out: The Court found there is no requirement for interests to be represented in a given broadcast and no obligation under the Broadcasting Act for all of the main political parties to be granted an opportunity to present their views on a general political topic in a televised debate.

The second case (VwGH 21 April 2004, 2004/04/0009) concerned the legality of the decision taken to stop broadcasting "Kunst-Stücke", a late-night programme used for many years by the ORF as a way of presenting highbrow television programmes of little appeal to mass viewers. The applicant claimed that as a result of having taken this programme off the air the ORF was no longer carrying out part of its cultural remit. The Federal Communications Office dismissed this claim on the ground that the ORF could also fulfil its cultural remit with other programmes. The Administrative Court confirmed this finding. The ORF's mission statement does not require it to offer programmes containing the same broadcast content as that previously shown in "Kunst-Stücke".

© European Audiovisual Observatory (Council of Europe) 2026

Entscheidung des österreichischen Verwaltungsgerichtshofs vom 21. April 2004, 2004/04/0240

Decision of the Austrian Administrative Court of 21 April 2004, 2004/04/0240

Entscheidung des österreichischen Verwaltungsgerichtshofs vom 21. April 2004, 2004/04/0009

Decision of the Austrian Administrative Court of 21 April 2004, 2004/04/0009

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026