

[AT] New ORF Facebook Ban Temporarily Suspended

IRIS 2013-10:1/8

*Christian Lewke
Institute of European Media Law (EMR), Saarbrücken/Brussels*

As Österreichischer Rundfunk (Austrian Broadcasting Corporation - ORF) announced in a press release on 20 September 2013, the Verfassungsgerichtshof (Constitutional Court - VfGH) has temporarily suspended a ban imposed by the Bundeskommunikationssenat (Federal Communications Board - BKS) on ORF's page on the Facebook social network and granted ORF's application for its appeal to have staying effect (see IRIS 2012-3/9 and IRIS 2013-1/6).

The court held that ORF had given comprehensible reasons why the immediate removal of the Facebook page would represent a "disproportionate disadvantage"; there was no compelling public interest in refusing to grant a stay of execution. ORF can therefore continue to use its page on the Facebook platform until a decision is reached in the main procedure.

The BKS imposed the ban on what it considered to be a "permanent forum", which is unlawful under Article 4f(2)(22) of the ORF-Gesetz (ORF Act). It considered that ORF was operating such a forum even if it used the Facebook infrastructure to do so.

The BKS had previously banned ORF from using Facebook on the basis of Article 4f(2)(25) of the ORF-Gesetz, which prohibits links to social networks and other forms of cooperation with them. The Constitutional Court held that this part of the provision breached ORF's rights under Article 10 of the European Convention on Human Rights (ECHR) and therefore repealed it as unconstitutional (see IRIS 2013-8/10).

Pressemitteilung des ORF vom 20. September 2013

<http://orf.at/stories/2199260/>

ORF press release of 20 September 2013

Pressemitteilung des ORF vom 17. September 2013

<http://orf.at/stories/2198832/>

ORF press release of 17 September 2013

