

# European Court of Human Rights: Case of Telesystem Tirol Kabeltelevision Struck Out of the List

**IRIS 1997-7:1/5**

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Telesystem Tirol Kabeltelevision applied to the European Commission of Human Rights in 1991, relying on Article 10 of the European Convention for the protection of human rights and fundamental freedoms. As a local cable TV network (Gemeinschaftsantennenanlage - in the USA referred to as cable TV system), it complained that, pursuant to Austrian law, it had been refused permission to distribute its own TV programmes ("active broadcasting") and was only authorised to receive already existing broadcast programmes and retransmit them to the subscribers of the local network ("passive broadcasting").

The refusal to grant the right to distribute its own programmes was based on the general broadcasting monopoly in favour of the Austrian Broadcasting Corporation. The Commission, in its report of 18 October 1995, considered that arguments similar to those in the case of Informationsverein Lentia vs. Austria (ECourtHR, 24 November 1993, vol. 276), led to the conclusion that the restriction on the freedom to impart information by prohibiting private broadcasting, as this was based on the Austrian Broadcasting monopoly, was not necessary in a democratic society and hence was in breach of Article 10, par. 2 of the Convention. The Telesystem Tirol Kabeltelevision case then was referred to the European Court of Human Rights.

In the meantime however, the Austrian Constitutional Court in two judgments (Constitutional Court, 27 September 1995 (see IRIS 1996-6: 8) and 8 October 1996 (see IRIS 1997-2: 5) declared that the prohibition of "active broadcasting" by local TV networks and the prohibition of commercial advertising by private broadcasters is in breach of Article 10 of the European Convention, under reference also to the European Court's judgment of 24 November 1993 in the case of Informationsverein Lentia . The European Court now in its judgement of 9 June 1997 took formal note of a friendly settlement of the matter between the Austrian government and the applicant. The Court follows the request by the applicant to strike the case out of the list, since active broadcasting and the dissemination of commercial advertising by local TV networks are now legally permissible in Austria. The Court is of the opinion that there is no reason of public policy to continue the litigation. The Austrian broadcasting law finally seems to be in accordance now with Article 10 of the European Convention on Human Rights, in as far as the Monopoly of the Public Broadcasting Organisation Case come to an end.

***European Court of Human Rights, Case of Telesystem Tirol  
Kabeltelevision v. Austria, 9th June 1997***

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