

European Court of Human Rights: Vereinigung Demokratischer Soldaten Österreichs and Gubi v. Austria

IRIS 1995-3:1/7

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The European Court of Human Rights has held that the refusal of Austria to distribute a special interest magazine among Austrian soldiers, constituted a violation of Article 10 of the European Convention on Human Rights. The monthly magazine, called der Igel (the hedgehog) was aimed at the soldiers serving in the Austrian army; it contained information and articles - often of a critical nature - on military life. In 1987, the organisation that published der Igel requested the Austrian Federal Defence Minister to have der Igel distributed in the barracks in the same way as the other two military magazines. The minister decided that he would not authorise such a distribution. In his opinion, only publications adhering to the constitutional duties of the army, which did not damage its reputation and which did not lend column space to political parties, should be supplied on military premises. The second applicant in this case, Mr Gubi - at that time fulfilling his national service - had been ordered to stop the distribution of issue No. 3/87 of der Igel in his barracks. A disciplinary penalty for distributing the magazine was imposed on Mr Gubi, because of certain guidelines prohibiting the distribution of any publication in the barracks without prior authorisation of the commanding officer.

The European Court of Human Rights held that the refusal by the Minister of Defence to allow the distribution of der Igel in the same way as other magazines distributed by the army was disproportionate of the legitimate aim pursued. Prohibiting Mr Gubi to distribute the magazine also constituted a breach of Article 10 of the Convention, since the interference was not "necessary in a democratic society".

European Court of Human Rights, Case of Vereinigung Demokratischer Soldaten Österreichs and Gubi v. Austria, 19 December 1994, Series A vol. 302.

<https://hudoc.echr.coe.int/eng?i=001-57908>

