

Beschwerdegegenstand

Sämtliche Angaben zum Sachverhalt, zu den Beschwerdepunkten und zur Frage der Erschöpfung des innerstaatlichen Rechtswegs sowie der Einhaltung der Sechs-Monats-Frist nach Artikel 35 Absatz 1 der Konvention müssen in diesem Teil des Beschwerdeformulars dargelegt werden (Abschnitt E, F und G). Es ist nicht möglich, diese Abschnitte leer zu lassen oder lediglich auf beigefügte Blätter zu verweisen. Siehe dazu Artikel 47 Absatz 2 der Verfahrensordnung und die Praktische Anordnung zur Einleitung des Verfahrens (nur in Englisch und Französisch verfügbar) sowie das „Merkblatt zum Ausfüllen des Beschwerdeformulars“.

E. Darlegung des Sachverhalts

56.

Summary:

The applicant, in his capacity as a civil rights activist and internet activist for freedom of information complains of a violation of his rights under Article 10 ECHR and 6 ECHR.

The applicant, in his capacity as a civil rights activist and internet activist has an essential role for shaping of public opinion. His work falls within the scope of press freedom. The applicant is a well-known blogger. The press freedom is an everyman's right.

The applicant therefore applied for examine the files, concerning the opinions about the proposals from the Commissioner for Human rights (petition II/VF.0993.15), by the Ministry of the Interior and Ministry of Justice.

It was denied to him on the argument, that he has no right to see the documents for the petitions process.

The Federal Constitutional Court decided on January 22nd, 2016 not to accept a constitutional complaint.

Statement of facts:

The applicant is a German national activist for civil rights and activist for freedom of information.

He achieves more than 16.500 people with his website:

<http://home.broadpark.no/~wkeim/if.htm> or <https://sites.google.com/site/walterkeim/de>

He presented a petition on October, 25th, 2007 (P II/VF.0993.15).

The "committee on Constitutional- legislative- and regulatory issues" has regarded the petition as been settled on June 17th, 2008 and informed on July 3rd 2008.

On August 8th, 2008 he applied for examine the file in the decision at the Bavarian State Ministry of Justice (StMJ) and the Bavarian State Ministry of Interior (StMI). The Bavarian Land Parliament told him, that he has no right in a petitions process.

The applicant has also no right for access to the statements, the StMI and StMJ told him on September 17th and 19th, 2009 after an application by him, with the same wording.

By an application of December 13th, 2011 at the StMI, StMJ and the Bavarian Land Parliament, the applicant requested to access the file.

By letter of January 31st, 2012, the Bavarian Land Parliament replied that they negate the access to files, usually.

On July 14th, 2012, the applicant appealed to the Administrative Court in Munich (Bayerisches Verwaltungsgericht München) to give access to the files.

In his brief he already mentioned a violation of Art. 10 ECHR and Art. 19 II ICCPR. The applicant proffered his human right to receive access to the files. The applicant applied to the respondent naming the relevant norm, Art. 29 (I) BayVwVfG and § 9 AGO (general german rules).

Darlegung des Sachverhalts (Fortsetzung)

57.

The applicant proffered as well, that documents by public administration need to be made accessible.

On June 13th, 2013 the Administrative Court in Munich decided to reject the claim on the ground, that he has no claim by the Bavarian Law and the claimant does not have a legitimate interest. In addition, the court ruled, that there is no right to access to files. It was served upon the applicant by July, 5th, 2013.

Finally the Administrative Court would not even mention Art 10 ECHR in its decision.

By letter on July, 25th, 2013, the applicant applied for leave to appeal.

The application for leave to appeal was rejected by the Bavarian Court of Administration in Munich on February, 14th, 2014. This decision was served on the applicant on February, 24th, 2014. The Court also ruled, that there is no right for freedom to access information, in the Basic law or Art. 10 ECHR or even in Art 19 (2) ICCPR.

The applicant submitted his appeal to the Federal Court of Constitution on March, 13th 2014, which the Court denied to entertain by decision of January, 13th 2016, which was served upon the applicant by February, 5th 2016.

The refusal by the Bavarian State Ministry of Justice (StMJ) and the Bavarian State Ministry of Interior (StMI) and the Bavarian Land Parliament, to give access in the files violates the applicant's rights under Article 10 ECHR and Article 19 (2) ICCPR.

F. Angabe der geltend gemachten Verletzung(en) der Konvention und/oder Protokolle und Begründung der Beschwerde

59. Geltend gemachter Artikel	Erläuterung
Art. 10 ECHR	<p>Violation of the Right to Know: The respondent, by not giving access to the files violates the applicants right to know as well as the freedom of the press in its function as a public watchdog as embodied in Art. 10 (1) ECHR.</p> <p>The respondent as a German national activist for civil rights and activist for freedom of information, benefits of the protection of Art. 10 ECHR. He supports public access to information with his websites. The applicant is both a civil right figure, netizen and an internet activist for freedom of information in Europe. He supports improvement of patients' rights. The applicant did a demand for a Freedom of Information (FOI) Law for the German parliament Bundestag. He has the role as a public watchdog.</p> <p>He has a significant role to inform the public. Therefore he has interest on short reporting where he is being active for. He is hindered to inform the public adequately on a most mysterious and hidden decision concerning his petition. The question why the respondent is still unwilling to show the written statement is a question of general interest. The applicant is asking for the the decision and the access in the documents. The information, which is withheld by the respondent is ready and available. The respondent controls the written arguments against the public. Art. 10 ECHR protects not only the imparting of information but also the collecting of information. Since the imparting of information and a public debate is not possible unless access to such written statements and information is ensured, access enjoys a particularly high level of protection. Upon request, the government needs to procure access to such information, at least for those acting like the press as a public watchdog. Failing this, withholding such information would come to censorship.</p> <p>There is no justification for withholding the information under Art. 10 (2) ECHR. The respondent has not yet decided whether he wants to publish the documents. He is presently only requiring the documents to do research. Therefore the respondent has a duty to render the information requested. The withholding of such information is an interference with the freedoms of expressions and the press in the form of a right of access to official information. In the present matter, the respondent is in possession of the information desired.</p> <p>The applicant has a major role for the freedom of information in Europe. The applicant has no possibility to inform himself of the statements by the Bavarian State Ministry of Justice and the Bavarian State Ministry of Interior. He can not report on them in his capacity as representative for the formation of public opinion. Hence, an interference with Article 10 (1) ECHR has occurred. (cf. ECHR, decision of April 14, 2009- Application No.37374/05 Szabadsagokert v. Hungary, no. 28)</p> <p>They said interference is exceptionally serious. The applicant can not inform the public and can not form the public opinion as his role as a well-known and popular internet activist. The applicant, who is a citizens representative cannot inform the public without the information. Media freedom is a fundamental right which includes to fill the lack of information(cf. ECHR, decision of February 2nd. 2012- Application No. 20240/08).</p> <p>There is a right for free information to internet activists and blogger</p>

Angabe der geltend gemachten Verletzung(en) der Konvention und/oder Protokolle und Begründung der Beschwerde (Fortsetzung)

60. Geltend gemachter Artikel	Erläuterung
Art. 6 ECHR	<p>By withholding the files and information the respondent violates as well Art. 6 ECHR, as the value of the information is diminished the longer the procedure takes. This is particularly serious for the public informers in internet which need quick information. By withholding the files and information the respondent violates as well Art. 6 ECHR, as the value of the information is diminished the longer the procedure takes. This is particularly serious for the public informers in internet which need quick information.</p>

I. Liste der beigefügten Unterlagen

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