

In the case of Stallinger and Kuso v. Austria (1),

The European Court of Human Rights, sitting, in accordance with Article 43 (art. 43) of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and the relevant provisions of Rules of Court B (2), as a Chamber composed of the following judges:

Mr R. Bernhardt, President,
Mr F. Matscher,
Mr C. Russo,
Mrs E. Palm,
Mr I. Foighel,
Mr J. Makarczyk,
Mr D. Gotchev,
Mr P. Jambrek,
Mr P. Kuris,

and also of Mr H. Petzold, Registrar, and Mr P.J. Mahoney, Deputy Registrar,

Having deliberated in private on 30 November 1996 and 18 March 1997,

Delivers the following judgment, which was adopted on the last-mentioned date:

Notes by the Registrar

1. The case is numbered 12/1996/631/814-815. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

2. Rules of Court B, which came into force on 2 October 1994, apply to all cases concerning the States bound by Protocol No. 9 (P9).

PROCEDURE

1. The case was referred to the Court by the European Commission of Human Rights ("the Commission") on 26 January 1996, within the three-month period laid down by Article 32 para. 1 and Article 47 of the Convention (art. 32-1, art. 47). It originated in two applications (nos. 14696/89 and 14697/89) against the Republic of Austria lodged with the Commission under Article 25 (art. 25) by four Austrian nationals, Mr Alois Stallinger and Mrs Amalia Stallinger and Mr Johann Kuso and Mrs Elisabeth Kuso, on 16 November 1988 and 27 February 1989 respectively.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) and to the declaration whereby Austria recognised the compulsory jurisdiction of the Court (Article 46) (art. 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 6 para. 1 of the Convention (art. 6-1).

2. In response to the enquiry made in accordance with Rule 35 para. 3 (d) of Rules of Court B, the applicants stated that they wished to take part in the proceedings and designated the lawyer who would represent them (Rule 31). The lawyer was given leave by the President of the Chamber to use the German language (Rule 28 para. 3).

3. The Chamber to be constituted included ex officio

Mr F. Matscher, the elected judge of Austrian nationality (Article 43 of the Convention) (art. 43), and Mr R. Bernhardt, the Vice-President of the Court (Rule 21 para. 4 (b)). On 8 February 1996, in the presence of the Registrar, the President of the Court, Mr R. Ryssdal, drew by lot the names of the other seven members, namely Mr B. Walsh, Mr C. Russo, Mrs E. Palm, Mr F. Bigi, Mr D. Gotchev, Mr P. Jambrek and Mr P. Kuris (Article 43 in fine of the Convention and Rule 21 para. 5) (art. 43). Subsequently Mr I. Foighel and Mr J. Makarczyk, substitute judges, replaced Mr Bigi, who had died, and Mr Walsh, who was unable to take part in the further consideration of the case (Rules 22 para. 1 and 24 para. 1).

4. As President of the Chamber (Rule 21 para. 6), Mr Bernhardt, acting through the Registrar, consulted the Agent of the Austrian Government ("the Government"), the applicants' lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 39 para. 1 and 40). Pursuant to the order made in consequence, the Registrar received the Government's and the applicants' memorials on 1 October and 3 October 1996 respectively. The Commission produced the file on the proceedings before it, as requested by the Registrar on the President's instructions.

5. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 26 November 1996. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr W. Okresek, Head of the International Affairs Division, Constitutional Department, Federal Chancellery,	Agent,
Mr D. Hunger, Federal Ministry of Agriculture and Forestry,	
Mrs E. Bertagnoli, International Law Department, Federal Ministry for Foreign Affairs,	
Mrs I. Siess, Constitutional Department, Federal Chancellery,	Advisers;

(b) for the Commission

Mr A. Weitzel,	Delegate;
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(c) for the applicants

Mr E. Proksch, Rechtsanwalt, of the Vienna Bar,	Counsel.
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The Court heard addresses by Mr Weitzel, Mr Proksch and Mr Okresek and also replies to its questions.

AS TO THE FACTS

I. The circumstances of the case

6. The applicants are farmers. Mr and Mrs Stallinger live in Rohrbach, Upper Austria; Mr and Mrs Kuso live in Au am Leithagebirge, Lower Austria.

Their land was involved in agricultural land-consolidation proceedings (Zusammenlegungsverfahren).

A. The case of Mr and Mrs Stallinger

7. In December 1980 the Linz District Agricultural Authority (Agrarbezirksbehörde - "the District Authority") published a consolidation scheme concerning the Harrau-Rohrbach area. Following

various appeals from the applicants the scheme was amended on two occasions. The amended schemes were published in September 1983 and February 1986.

8. On 16 October 1986, the Upper Austria Land Reform Board (Landesagrarsenat - "the Regional Board"), which included five civil servants and three judges (see paragraph 24 below), dismissed a further appeal by the applicants against the third consolidation scheme. The decision was rendered after an oral hearing had been held in camera. The applicants, assisted by counsel and other interested parties, including the mayor of Rohrbach, appeared before the Board.

9. Having regard to an official expert opinion and a private expert opinion submitted by the applicants as well as to further evidence including the result of investigations carried out on the spot by the expert members of the Regional Board in the absence of the parties, the Board found that the compensatory parcels allotted to the applicants constituted adequate compensation in exchange for their former properties.

The applicants' allegation that some of their former plots had a higher value because of future construction possibilities was considered to be unproven in view of the fact that the land in question was classified as agricultural and was used as such. Furthermore, it followed from statements made by community officials that no change was foreseen for the future. The fact that a certain K., named as a witness by the applicants, was willing to pay an important price for the plots in question was therefore considered to be irrelevant.

10. On 24 September 1987 the Constitutional Court (Verfassungsgerichtshof), holding that the applicants' complaint did not have sufficient prospects of success, declined to accept it for adjudication and referred the case to the Administrative Court (Verwaltungsgerichtshof). The Constitutional Court made reference to the European Court of Human Rights' Ettl and Others v. Austria judgment of 23 April 1987 (Series A no. 117).

11. On 3 May 1988 the Administrative Court dismissed the complaint, rejecting at the same time, in accordance with section 39 (2) no. 6 of the Administrative Court Act (see paragraph 28 below), the applicants' request for an oral hearing.

Whereas the applicants had argued that the expert members of the Regional Board were prejudiced by their own expert opinion when, as in the case at issue, the Regional Board had set aside a consolidation scheme and subsequently dealt with a complaint against the new scheme, the Administrative Court referred to its own case-law and that of the Constitutional Court as well as to the above-mentioned Ettl and Others judgment according to which the participation of expert members in the decisions of the regional boards was legally unobjectionable.

In so far as the applicants had complained that expert members of the Regional Board had effected an investigation on the spot in the applicants' absence, the Administrative Court stated that the procedure followed was in line with procedural law. It also pointed out that, at the time they were summoned to the appeal hearing, the applicants were notified the result of the investigation and could make the relevant observations at that hearing.

The Administrative Court further found that no objections could be raised against the Regional Board's assessment as to whether building on some of the applicants' former properties was likely to be subsequently allowed.

B. The case of Mr and Mrs Kuso

12. In May 1974 the Lower Austria Agricultural District Authority (Agrarbezirksbehörde - "the District Authority") published a provisional consolidation scheme concerning the Au am Leithagebirge area. Following an appeal from the applicants, the scheme was amended.

13. On 9 September 1975 the District Authority issued a new consolidation scheme.

14. On 31 January 1979, after a series of appeals, the Lower Austria Land Reform Board (Landesagrarsenat - "the Regional Board") partly granted the appeal but dismissed the applicants' complaint that the parcels of land allotted to them were insufficient and that they had therefore received inadequate compensation.

15. On 5 November 1980, on the applicants' further appeal, the Supreme Land Reform Board (Oberster Agrarsenat) quashed the Regional Board's decision and referred the case back to the District Authority on the ground that some of the compensatory parcels allotted to the applicants appeared to be insufficient.

16. On 30 January 1984 the District Authority published a new scheme which was confirmed by the Regional Board on 18 December 1984. The Board considered that the applicants had received adequate compensatory plots.

17. On 26 November 1985 the Administrative Court set the decision of 18 December 1984 partly aside on account of a breach of procedural provisions.

18. On 17 February 1987 the Regional Board after an in camera hearing but without having carried out supplementary investigations again dismissed the applicants' appeal against the consolidation scheme of 30 January 1984.

19. On 24 September 1987 the Constitutional Court declined to accept for adjudication the applicants' complaint on the ground that it had no chances of success and referred it to the Administrative Court.

20. On 19 April 1988 the Administrative Court dismissed the complaint rejecting at the same time, in accordance with section 39 (2) no. 6 of the Administrative Court Act (see paragraph 28 below), the applicants' request for an oral hearing.

In dealing with the applicants' complaints that the hearing before the Regional Board had not been public, the Administrative Court referred to the case of Ettl and Others mentioned above, and held that such hearings were covered by Austria's reservation in respect of Article 6 of the Convention (art. 6). It further rejected the allegation that the Board, which was called to decide on two consecutive appeals in the same matter, was not on that account an impartial tribunal within the meaning of Article 6 (art. 6).

21. The Administrative Court further considered that the Board had remedied the procedural shortcomings in respect of which its earlier decision had to be set aside. In fact it had now given a detailed and unobjectionable assessment of the respective value of the applicants' former properties as compared with the compensatory parcels. The court also considered that further evidence offered by the applicants in this respect had correctly been rejected by the Board as being irrelevant.

22. In so far as the applicants had submitted that their case had not been sufficiently discussed at the hearing and that substitute members (Ersatzmitglieder) of the Regional Board had therefore not sufficiently been informed of all the issues, the court first pointed

out that only one of the members of the Board participating in the hearing of the applicants' appeal had been a supplementary member and in any case all members as well as the parties had had the opportunity to put questions in order to see to it that the facts were exhaustively and correctly established.

II. Relevant domestic law and practice

A. Article 90 para. 1 of the Federal Constitution

23. Article 90 para. 1 of the Federal Constitution provides:

"Hearings by trial courts in civil and criminal cases shall be oral and public. Exceptions may be prescribed by law."

B. Composition of the regional land reform boards

24. Regional land reform boards are composed of eight members, all appointed by the government of the Land of the Austrian Federation in which it exercises jurisdiction (see section 5 (2) and (4) of the Federal Agricultural Authorities Act (Agrarbehördengesetz) 1950, as amended in 1974). These are:

one Land civil servant, who is legally qualified (rechtskundig), and acts as chairman;

three judges;

a legally qualified Land civil servant with experience in land reform, who acts as rapporteur;

a senior Land civil servant (Landesbeamter des höheren Dienstes) with experience in agronomic matters;

a senior Land civil servant with experience in forestry matters; and

an agricultural expert within the meaning of section 52 of the General Administrative Procedure Act (Allgemeines Verwaltungsverfahrensgesetz).

For each of the above members a substitute member has to be appointed (section 5 (3) of the Federal Agricultural Authorities Act).

C. Hearings before land reform boards

25. Section 9 (1) of the Federal Agricultural Proceedings Act (Agrarverfahrensgesetz) provided as follows:

"Land reform boards take their decisions after an oral hearing in the presence of the parties."

It is the constant practice of administrative authorities to hold oral hearings in camera unless the law provides otherwise.

26. By virtue of legislation enacted in December 1993 (Bundesgesetzblatt no. 901, p. 7160), hearings before land reform boards are now public.

D. Hearings before the Administrative Court

27. Pursuant to section 36 of the Administrative Court Act (Verwaltungsgerichtshofgesetz), proceedings consist essentially in an exchange of written pleadings. If one of the parties so requests the Administrative Court may hold a hearing which is in principle held in public (sections 39 (1) no. 1 and 40 (4)).

28. Section 39 (1) of the Administrative Court Act provides that the Administrative Court is to hold a hearing after its preliminary investigation of the case where a complainant has requested a hearing within the time-limit. Section 39 (2) no. 6, which was added to the Act in 1982, provides however:

"Notwithstanding a party's application ..., the
Administrative Court may decide not to hold a hearing where

...

6. it is apparent to the Court from the pleadings of the parties to the proceedings before it and from the files relating to the earlier administrative proceedings that an oral hearing is not likely to clarify the case further."

PROCEEDINGS BEFORE THE COMMISSION

29. Mr and Mrs Stallinger applied to the Commission on 16 November 1988; Mr and Mrs Kuso on 27 February 1989. They relied on Article 6 para. 1 of the Convention (art. 6-1), complaining that the land reform boards could not be regarded as independent and impartial tribunals established by law and that they did not have a public hearing. Under Article 1 of Protocol No. 1 (P1-1), the applicants further complained that the new land assigned to them under the consolidation arrangements yielded less than their former properties.

30. On 17 October 1991 the applications were joined (nos. 14696/89 and 14697/89). On 29 March 1993 the Commission declared the applications admissible as far as the complaints under Article 6 para. 1 (art. 6-1) were concerned. In its report of 7 December 1995 (Article 31) (art. 31), it expressed the unanimous opinion

(a) that there had been no violation of the applicants' right to the determination of their civil rights and obligations by "an independent and impartial tribunal established by law";

(b) that there had been a violation of the applicants' right to a public hearing;

(c) that there had been no violation of Mr and Mrs Stallinger's right to a fair hearing.

The full text of the Commission's opinion is reproduced as an annex to this judgment (1).

Note by the Registrar

1. For practical reasons this annex will appear only with the printed version of the judgment (in Reports of Judgments and Decisions 1997-II), but a copy of the Commission's report is obtainable from the registry.

FINAL SUBMISSIONS TO THE COURT

31. The applicants asked the Court to hold that Article 6 para. 1 of the Convention (art. 6-1) had been violated in their case on account of the composition and procedure of the land reform boards.

32. The Government requested the Court to hold that Article 6 of the Convention (art. 6) had not been violated in the case at issue.

AS TO THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 PARA. 1 OF THE CONVENTION (art. 6-1)

33. The applicants alleged a breach of Article 6 para. 1 of the Convention (art. 6-1), which provides:

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing ... by an independent and impartial tribunal ..."

Before the Court, the applicants' complaints concerned the alleged lack of independence and impartiality of land reform boards as well as the lack throughout the proceedings of a public hearing before a "tribunal".

The Government disputed these contentions; the Commission only agreed with the applicants that their right to a public hearing had not been respected.

A. Right to an "independent and impartial tribunal"

34. The applicants submitted that the Regional and Supreme Land Reform Boards could not be considered independent and impartial tribunals within the meaning of Article 6 para. 1 of the Convention (art. 6-1). Regional boards, in particular, are administrative bodies composed of civil servants whose task is to decide on issues arising from land-consolidation measures which are, themselves, of an administrative nature. In this context, the applicants concentrated their complaint on the role played by the expert members of the boards: on an appeal, only they would visit the sites and draft a report which may contain proposals for amendment of the consolidation measures; subsequently, they would take part in the boards' secret deliberations, where they would defend their proposals and eventually vote on their merits. The fact that the parties were not allowed to make allegations in respect of such proposals - which were not even communicated to them - meant that the proceedings could not be considered adversarial.

35. The Government pointed out that the expert members of the regional boards were not to be confounded with the ad hoc experts that the boards could appoint in accordance with the provisions on administrative procedure. They invited the Court to reach the same conclusion as it did in the case of *Ettl and Others v. Austria* (judgment of 23 April 1987, Series A no. 117) and dismiss the complaint.

36. The Commission did not find any circumstances in the present case that would justify departing from the existing case-law, in particular reference to the principles established in the *Ettl and Others* judgment (*ibid.*).

37. The Court notes that, with regard to the membership of and procedure before land reform boards, the legal situation obtaining in the present case was identical to that which it was called on to examine in the case of *Ettl and Others*. The present applicants placed particular emphasis on the characteristics of the role of the expert members of the regional boards, which allegedly call into question the boards' impartiality and the adversarial character of the proceedings before them. However, as stated in the *Ettl and Others* judgment (pp. 18-19, para. 40), "such experts are needed in cases concerning land consolidation, which is an operation that raises issues of great complexity and affects not only the owners directly concerned but the community as a whole." On that occasion the Court found that the fact that civil servants sat on account of their experience of agronomy, forestry and agriculture, could not give rise to doubts about the independence and impartiality of the boards (*ibid.*). Furthermore, the Court noted that where these civil servants prepare a written opinion on a given issue, the law requires "that it be communicated to the parties, who must be given an opportunity to submit their comments" (*ibid.*). Against that background the Court held

that the adversarial nature of the proceedings before the boards was "unaffected by the participation of the 'civil-servant experts'" (ibid.).

The applicants have failed to identify any convincing reason why the Court should depart from its case-law. The Court therefore finds no breach of the applicants' right under Article 6 para. 1 (art. 6-1) to have their case determined by "an independent and impartial tribunal".

B. Right to a "public hearing"

38. The applicants further complained that the hearings before the regional boards were not public and that the Administrative Court had refused to hold a hearing.

39. Hearings in civil matters are subject in principle to a reservation Austria made when ratifying the Convention. Although the lack of a public hearing was held by the Court in its Ettl and Others judgment (cited above, p. 19, para. 42) to be covered by the Austrian reservation, the application of the latter in the present case as well as its validity under the Convention have been contested. The Court will therefore first have to ascertain if the reservation in issue applies in the present case.

1. Austria's reservation

40. Austria's reservation in respect of Article 6 of the Convention (art. 6) reads as follows:

"The provisions of Article 6 of the Convention (art. 6) shall be so applied that there shall be no prejudice to the principles governing public court hearings laid down in Article 90 of the 1929 version of the Federal Constitutional Law." (see paragraph 23 above)

41. Article 64 of the Convention (art. 64) provides:

"1. Any State may, when signing [the] Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this Article (art. 64).

2. Any reservation made under this Article (art. 64) shall contain a brief statement of the law concerned."

42. In the Commission's view, Austria's reservation in respect of Article 6 of the Convention (art. 6) is invalid for failure to comply with the requirements of Article 64 para. 2 (art. 64-2), in that it does not contain a "brief statement" of the laws concerned. In those circumstances, the Commission did not find it necessary to examine whether the reservation complied with the other requirements of Article 64 (art. 64).

43. The Government again drew a parallel between the instant case and that of Ettl and Others (cited above), in which the Court had held that the reservation applied in proceedings before a court dealing with issues of land consolidation. In their view, even if Article 90 of the Federal Constitution (see paragraph 23 above) referred only to "civil and criminal cases", the reservation was also applicable to cases before administrative courts when those courts determined questions of "civil rights", as that concept has been interpreted by the Convention organs. The same conclusion could be reached by looking at the intention of the Federal Government at the time of making the reservation.

44. The Government further sought to distinguish the present case from that of *Belilos v. Switzerland* (judgment of 29 April 1988, Series A no. 132), where the Court had held, *inter alia*, that the requirement that the reservation contain a brief statement of the law concerned, as "a condition of substance", had not been respected (pp. 27-28, para. 59). In their submission, the reservation in issue refers to all forms of procedures where a decision is taken which concerns civil rights or criminal charges. The requirements of legal certainty were thus satisfied.

45. The Court must therefore ascertain whether Austria's reservation in respect of Article 6 (art. 6) covers the applicants' alleged right to a "public hearing" in the present case.

46. By virtue of section 9 (1) of the Federal Agricultural Proceedings Act (see paragraph 25 above), at the material time hearings before land reform boards were only open to the parties concerned and not to the public at large. However, in order to comply with the requirements of Article 6 para. 1 (art. 6-1) it is sufficient if that shortcoming is remedied in the course of subsequent control to be carried out by a "judicial body that has full jurisdiction" (see, *mutatis mutandis*, the *Albert and Le Compte v. Belgium* judgment of 10 February 1983, Series A no. 58, p. 16, para. 29; and the *Ortenberg v. Austria* judgment of 25 November 1994, Series A no. 295-B, pp. 49-50, para. 31). It has not been suggested that in the instant case the scope of the Administrative Court's control was not sufficient.

47. The Court notes that the applicants expressly requested a hearing before the Administrative Court but were refused (see paragraphs 11 and 20 above). It thus has to be determined whether the powers under which the Administrative Court acted, namely section 39 (2) no. 6 of the Administrative Court Act (see paragraph 28 above), are covered by Austria's reservation.

48. In this respect the Court observes that that provision came into force in 1982, whereas Austria ratified the Convention and made the reservation in question in 1958. Under Article 64 para. 1 (art. 64-1) only laws "then in force" in the State's territory can be the subject of a reservation. It must therefore be concluded that the applicants' complaint that the Administrative Court did not hold a hearing is not excluded from review by the European Court on account of the above reservation, since the provision on which the refusal to hold such a hearing was based was not in force at the time the reservation was made (see the *Fischer v. Austria* judgment of 26 April 1995, Series A no. 312, pp. 19-20, para. 41).

49. In view of this conclusion, the Court does not consider it necessary to examine the validity of the reservation in the light of the other conditions laid down in paragraphs 1 and 2 of Article 64 of the Convention (art. 64-1, art. 64-2) (*ibid.*, p. 20, para. 42).

2. Compliance with Article 6 para. 1 of the Convention (art. 6-1)

50. It remains to be examined whether in the present case Article 6 para. 1 (art. 6-1) conferred on the applicants the right to a public hearing.

51. As stated above (see paragraph 46), only hearings in the Administrative Court are at stake, hearings before land reform boards not being open to the public. The Court notes that the practice of the Administrative Court is not to hear the parties unless one of them asks it to do so (see paragraphs 27 and 28 above). However, the present applicants expressly requested an oral hearing in the Administrative Court. This was refused on the ground that it was not

likely to clarify the case further (see paragraph 28 above).

Since the Government have not identified any exceptional circumstances that might have justified dispensing with a hearing, the Court considers that the Administrative Court's refusal amounted to a violation of the applicants' Article 6 (art. 6) right to a "public hearing".

C. Other complaints

52. Before the Commission Mr and Mrs Stallinger complained that the fact that they were never summoned to the in situ inspection of the land by the expert members of the Regional Board infringed their right to a fair hearing. This complaint has not been pursued before the Court, which sees no reason to entertain it of its own motion.

D. Conclusion

53. The Court finds that there has been a violation of Article 6 para. 1 of the Convention (art. 6-1).

II. APPLICATION OF ARTICLE 50 OF THE CONVENTION (art. 50)

54. Article 50 of the Convention (art. 50) reads:

"If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

55. The applicants submitted that the damage resulting from the improper procedure to which they were subject amounted to a total of 400,000 Austrian schillings (ATS).

56. In the Government's submission, compensation could not be awarded on the basis of speculating as to what the outcome of the proceedings would have been had a public hearing taken place.

57. Like the Delegate of the Commission, the Court observes that the applicants have not sought to substantiate their claim for just satisfaction under Article 50 (art. 50). Similarly, no characterisation of the damage allegedly suffered has been put forward. In any event, in so far as the claim may concern damage of a pecuniary nature, the Court cannot speculate as to the outcome of the proceedings had a public hearing taken place before the Administrative Court; the claim must therefore be rejected. As to any non-pecuniary damage that may have been sustained, the Court considers that the finding of a violation of the Convention provides sufficient just satisfaction for the purposes of Article 50 (art. 50).

B. Costs and expenses

58. The applicants further claimed ATS 200,000 in respect of costs and expenses incurred in the domestic proceedings and in those before the Strasbourg institutions.

59. The Government found the sum excessive. In their contention, a global sum of ATS 30,000 would represent a reasonable compensation for all relevant costs and expenses.

The Delegate of the Commission submitted that the amount

claimed under this head did not seem to be exaggerated.

60. The Court notes that, as to the costs incurred in the domestic proceedings, only those related to the request for a public hearing are of relevance. Since only one of the three complaints declared admissible by the Commission has led to the finding of a violation, the Court, making an assessment on an equitable basis as required by Article 50 (art. 50), awards the applicants ATS 120,000 in respect of costs and expenses.

C. Default interest

61. According to the information available to the Court, the statutory rate of interest applicable in Austria at the date of adoption of the present judgment is 4% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that there has been no violation of Article 6 para. 1 of the Convention (art. 6-1) as regards the applicants' complaint that they were not able to bring their case before an independent and impartial tribunal;
2. Holds that there has been a violation of Article 6 para. 1 of the Convention (art. 6-1) on account of the lack of a public hearing before the Administrative Court;
3. Holds that the present judgment in itself constitutes sufficient just satisfaction for any non-pecuniary damage sustained;
4. Holds
 - (a) that the respondent State is to pay the applicants, within three months, in respect of costs and expenses, 120,000 (one hundred and twenty thousand) Austrian schillings;
 - (b) that simple interest at an annual rate of 4% shall be payable from the expiry of the above-mentioned three months until settlement;
5. Dismisses the remainder of the applicants' claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 23 April 1997.

Signed: Rudolf BERNHARDT
President

Signed: Herbert PETZOLD
Registrar