



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

THIRD SECTION

CASE OF PFLEGER v. AUSTRIA

(Application no. 27648/95)

JUDGMENT

STRASBOURG

4 April 2000

In the case of *Pfleger v. Austria*,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Sir Nicolas BRATZA, *President*,

Mr J.-P. COSTA,

Mr L. LOUCAIDES,

Mr P. KÜRIS,

Mr W. FUHRMANN,

Mrs H.S. GREVE,

Mr K. TRAJA, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 24 November 1998 and 21 March 2000,

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

PROCEDURE

1. The case originated in an application (no. 27648/95) against the Republic of Austria lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Austrian nationals, Mr Willibald Pfleger and Mrs Hermine Pfleger (“the applicants”), on 6 March 1995.

2. The applicants were represented by Mr Erich Proksch, a lawyer practising in Vienna (Austria). The Austrian Government (“the Government”) were represented by their Agent, Mr Franz Cede, Head of the International Law Department at the Federal Ministry of Foreign Affairs.

3. The applicants complained under Article 6 § 1 of the Convention about the lack of a public hearing and of any public delivery of the decisions in land consolidation proceedings involving their property. On 27 February 1997 the Commission (First Chamber) decided to give notice of the application to the Government without inviting them to submit their observations on its admissibility and merits pending the Court’s judgment in the Stallinger and Kuso v. Austria case. On 9 July 1997, following the Court’s Stallinger and Kuso v. Austria judgment of 23 April 1997, the Commission asked the Government to submit their observations. In the light of the above judgment, the Government waived this possibility, as did the applicant.

4. On 24 November 1998 the Court declared the application partly admissible.

5. On 2 December 1999, after an exchange of correspondence, the Section Registrar suggested to the parties that they should attempt to reach a

friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 23 December 1999 and on 15 February 2000 the Agent of the Government and the applicants' representative respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicants are farmers whose property was involved in agricultural land consolidation proceedings (*Zusammenlegungsverfahren*). In these proceedings, the Provincial Land Reform Board (*Landes-agrarsenat*) and the Supreme Land Reform Board (*Oberster Agrarsenat*) were both sitting in private when hearing the applicants' appeals by which they challenged the land consolidation plan. Their decisions were not delivered publicly. The Administrative Court (*Verwaltungsgerichtshof*) refused the applicants' request for a public hearing. Its decisions are available to the public.

THE LAW

7. On 23 December 1999 and on 15 February 2000, respectively, the Court received the following declaration from the Government and from the applicant's representative:

“Statements of the parties with a view to a friendly settlement

With reference to Article 38 § 1 (b) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the parties in the proceedings concerning application no. 27648/95 lodged by Willibald and Hermine Pfleger, declare, with a view to a friendly settlement reached with the assistance of the European Court of Human Rights, as follows:

1. The Government of the Republic of Austria will pay the applicants a sum amounting to altogether 40,000 Austrian schillings (ATS) as compensation in respect of any possible claims relating to the present application. This sum includes an amount of ATS 30,000 in respect of costs and expenses incurred in the proceedings before the Court.

This amount will be paid to the applicants' counsel, Mr Erich Proksch, in Vienna.

2. The applicants declare their application settled.

3. The applicants waive any further claims against the Republic of Austria relating to the present application.”

8. The Court takes note of the agreement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

9. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 4 April 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

N. BRATZA
President