CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF LUNDEVALL v. SWEDEN

(Application no. 38629/97)

JUDGMENT

STRASBOURG

12 November 2002

FINAL

12/02/2003

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Lundevall v. Sweden,

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

Sir Nicolas BRATZA, *President*,
Mrs E. PALM,
Mrs V. STRÁŽNICKÁ,
Mr M. FISCHBACH,
Mr J. CASADEVALL,
Mr R. MARUSTE,
Mr L. GARLICKI, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 22 October 2002,

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

PROCEDURE

1. The case originated in an application (no. 38629/97) against the Kingdom of Sweden 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 a Swedish national, Rolf Lundevall ("the applicant"), on 28 February 1997.

2. The applicant was until 31 May 2000 represented by Mr G. Antal and thereafter by Mr U. Jacobson, both lawyers practising in Stockholm. The Swedish Government ("the Government") were represented by their Agent, Ms E. Jagander, Ministry for Foreign Affairs.

3. The applicant alleged, in particular, that his rights under Article 6 of the Convention had been violated on account of the lack of an oral hearing before the Administrative Court of Appeal in proceedings concerning social security benefits.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. By a decision of 4 May 2000 the Court declared the application partly admissible.

7. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. On 6 October 1986 the applicant, who was born in 1919, applied for disability benefits under the Social Insurance Act (*Lagen om allmän försäkring*, 1962:381; hereinafter "the 1962 Act"). He claimed that he was in need of assistance and had additional costs due to a speech impediment caused by a laryngectomy operation in 1979.

9. By a decision of 24 April 1987 the Social Insurance Office (*försäkringskassan*; hereinafter "the Office") of the County of Västmanland rejected the application, finding that the applicant's needs or costs were not such as to make him eligible for disability benefits.

10. On 27 December 1990 the applicant requested the Office to review its decision under chapter 20, section 10 a of the 1962 Act. He claimed that he had failed to fully state his need of assistance and his additional costs in the original application. On 27 April 1991 he asked the Office, alternatively, to consider his request as a new application and to grant him benefits as from November 1988.

11. On 12 July 1991 the Office found that there was no basis for a review of its earlier decision. Further, in regard to the applicant's alternative claim, the Office noted that the applicant had reached the age of 65 in 1984 and that information relating to the time that followed could not be taken into account under the relevant rules. Consequently, the applicant's alternative claim was rejected.

12. The applicant appealed to the County Administrative Court (*länsrätten*) of the County of Västmanland. On 13 November 1992 the court gave judgment in his favour. It considered that the Office's first decision had been based on insufficient information and that the Office should therefore have reviewed that decision at the applicant's request. It noted that, according to the two medical certificates in the case, the applicant had considerable additional costs due to his handicap. Consequently, he was entitled to disability benefits as long as his need of assistance and his additional costs, taken together, attained the level required under the 1962 Act. Accepting the information submitted by the applicant in this regard, the court found that that level had been attained and granted him a disability allowance as from July 1986. The court did not hold an oral hearing nor, apparently, did the applicant request one.

13. The National Social Insurance Board (*Riksförsäkringsverket*; hereinafter "the Board") appealed against the County Administrative Court's judgment to the Administrative Court of Appeal (*kammarrätten*) in Stockholm, requesting that the Office's decision of 12 July 1991 be confirmed. The Board claimed that the information in the case showed that, before the age of 65, the applicant had not suffered a functional impairment

to such an extent that his need of assistance and extra expenses on account thereof had made him eligible for a disability allowance. Thus, the Office's first decision could not be considered to have been incorrect due to it being based on incorrect or incomplete material. Consequently, there were no grounds for a review under the 1962 Act. The Board further requested the appellate court to stay the enforcement of the appealed judgment. The latter request was granted by a decision of 30 December 1992.

14. The applicant made submissions in response to the Board's appeal. On 25 February 1993 he requested the Administrative Court of Appeal to hold an oral hearing in the case during which the person in charge of the case at the Office should give evidence relating to the meaning of its decision and the information on which it had been based. The applicant also asked the court to obtain the opinion of a medical expert.

15. On 12 November 1993 the Administrative Court of Appeal rejected both requests. In regard to the request for an oral hearing, the court, after having restated section 9 of the Administrative Court Procedure Act (*Förvaltningsprocesslagen*, 1971:291; hereinafter "the 1971 Act"; see further paragraph 23 below), gave the following reasons:

> "Having regard to the subject-matter at issue and the information that has come to hand in the case, [the court] finds that an oral hearing is unnecessary and rejects the request to that effect.
>
> [The applicant] is invited to state the further circumstances he wishes to invoke and submit his final written observations in the case within two weeks after having been notified of this decision.
>
> The case can be determined notwithstanding a failure to submit such written observations."

16. The applicant and the Board made further submissions. The applicant maintained that the Board had failed to adequately explain the reasons for its appeal and posed several questions to the Board. He requested that the court order the Board to clarify its position in the case. The court did not do so, however. The applicant's submissions were, however, forwarded to the Board which replied that it maintained its position in the case. On account of the court's refusal to order the Board to clarify its position and to hold a hearing, the applicant called into question the impartiality of the proceedings. By letters of 16 September 1994 and 10 January 1995 he reiterated his request for an oral hearing, stating that a hearing would give him the opportunity to ask questions to the Board and to present judgments in similar cases in support of his application for disability benefits. Furthermore, in assessing his condition, the court would benefit from having met him in person.

17. On 1 November 1995 the Administrative Court of Appeal rejected the applicant's renewed requests for an oral hearing and gave judgment in favour of the Board. Thus, by 3 votes to 2, it quashed the County

Administrative Court's judgment and confirmed the Office's decision of 12 July 1991. Without giving any further reasons, it considered that there had been no basis for a review of the Office's first decision. The dissenting judges considered that the applicant was entitled to the disability allowance granted to him by the County Administrative Court and that, for this reason, there were exceptional reasons to change the Office's decision.

18. The applicant appealed to the Supreme Administrative Court (*Regeringsrätten*). He requested that the case be referred back to the Administrative Court of Appeal for re-examination or, alternatively, that the Supreme Administrative Court confirm the County Administrative Court's judgment. He complained about the lack of an oral hearing in the Administrative Court of Appeal and also requested the Supreme Administrative Court to hold an oral hearing. On 24 February 1997 the Supreme Administrative Court refused the applicant leave to appeal.

19. On 9 October 1996 the applicant made a renewed request for a disability allowance. By a decision of 12 December 1996 the Office found that he had special needs and costs due to his handicap which made him eligible for disability benefits under the 1962 Act. As an allowance could be given retroactively only for the two years preceding the application, the applicant was granted an allowance as from October 1994.

II. RELEVANT DOMESTIC LAW

A. Disability benefits

20. According to chapter 9, section 2 of the 1962 Act, a person who is ill or handicapped is entitled to disability benefits, provided that, before reaching the age of 65, he or she has become functionally impaired for a considerable time and to such a degree that he or she needs time-consuming assistance from another person in everyday life or continuing assistance in order to be gainfully employed or otherwise has considerable extra expenses. The total need of support and assistance determines the eligibility for disability benefits and the amount of compensation. It is thus necessary to look at the whole situation of the person in question and to add together the need for different types of assistance and the extra expenses. According to the Board's guidelines, the total cost of all extra needs due to the disability should come to at least 28.5% of a basic amount geared to the price index (*basbelopp*) in order to make the individual eligible for an allowance. In 1987 and 1996, when the applicant made his applications to the Office, this corresponded to 6,868 and 10,317 Swedish kronor (SEK), respectively.

B. Procedure

21. A decision by the Social Insurance Office under the 1962 Act may be appealed against to the County Administrative Court and from there on to the Administrative Court of Appeal and the Supreme Administrative Court. Appeals may be made against the Office's ordinary decision or a decision upon review under chapter 20, section 10 a of the 1962 Act.

22. The latter provision enables the Office to change a decision it has previously taken in order to rectify certain obvious defects of that decision, provided that it has not already been reviewed by a court. Thus, the Office must change its earlier decision if it contains a writing error, miscalculation or similar mistake or if it is incorrect due to it being based on obviously incorrect or incomplete information or an obviously incorrect application of the law or other similar reason. The question of changing a decision under section 10 a should, in principle, be raised within two years from the day the decision was taken. However, it may nevertheless be changed if it appears only after the elapse of this two-year period that it was based on obviously incorrect or incomplete material or if there are other exceptional reasons. A decision is to be changed under this provision even if a request to that effect has not been made by the individual concerned.

23. The procedure in the administrative courts is governed by the provisions of the 1971 Act. Section 9 provides:

> "The proceedings are in writing.
>
> An oral hearing may be held in regard to a certain issue, when there is reason to assume that that would be to the benefit of the proceedings or the speedy determination of the case.
>
> In the Administrative Court of Appeal and the County Administrative Court an oral hearing shall be held if requested by an individual party to the proceedings, unless it is unnecessary or there are particular reasons against holding a hearing."

The possibility for an individual party to obtain an oral hearing on request under those circumstances is not available in the proceedings before the Supreme Administrative Court.

24. According to the preparatory documents to the 1971 Act, an oral hearing can be a valuable complement to the written proceedings and may benefit the examination of a case in two situations in particular: firstly, when it is necessary to hear a witness, an expert or a party or when it is difficult for a party to present the case in writing and, secondly, when different positions in the case need to be sorted out in order to eliminate unnecessary or pointless issues of dispute. In the latter case, the oral hearing takes on a preparatory character. It was stressed, however, that an oral hearing should not to be seen as an alternative to the written procedure but as a complement to it (see Government Bill 1971:30, p. 535).

25. It was further stated, in respect of the third paragraph of section 9, that a party's request for an oral hearing should be given great consideration. However, such a request should not have a decisive influence on the matter, as the question whether an oral hearing is necessary is to be determined primarily on the basis of the available information in the case. Still, other circumstances may be of relevance, for instance the importance for the party of the matter at stake or the possibility that an oral hearing could enhance the party's understanding of a future decision in the case. Nevertheless, if the case is of a trivial character or the costs of an oral hearing would be disproportionate to the values at stake in the case, there could be reason not to hold an oral hearing (p. 537).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

26. The applicant complained that the lack of an oral hearing before the Administrative Court of Appeal had constituted a violation of his rights under Article 6 § 1 of the Convention, the relevant parts of which read as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing ... by [a] ... tribunal ..."

A. The submissions of the parties

1. The Government

27. The Government questioned whether the proceedings at issue had involved a determination of the applicant's civil rights and thus whether Article 6 was applicable in the case. They maintained that the proceedings before the Administrative Court of Appeal had concerned the issue of whether or not the applicant had been entitled to a review of the Office's original decision not to grant him disability benefits. They contended that that was mainly a procedural issue and noted, furthermore, that the appellate court had in fact not ruled on the merits of the case.

28. Moreover, the Government claimed that it had been justified to dispense with an oral hearing in the applicant's case. They contended that a hearing would not have added anything to the proceedings and that the issues involved had been adequately resolved on the basis of the case file and the applicant's written observations. In this respect, they submitted that the issue to be examined by the Administrative Court of Appeal had mainly concerned points of law, as it had had to decide whether the Office's

original decision had been based on obviously incorrect or incomplete material or there had been other exceptional reasons to change the decision by virtue of chapter 20, section 10 a of the 1962 Act. They also pointed out that the applicant had stated, as reasons for his request for a hearing, that the person in charge of the case at the Office be heard. This had been irrelevant, as that official could hardly have been expected to provide any other information than what was already apparent from the Office's decision and the documents in the case. Furthermore, all the relevant evidence in the case had been in writing. The judges, possessing no medical expertise, could not have made their own assessment of the applicant's need of assistance or his expenses due to his handicap by meeting him in person but had had to rely on the written medical evidence submitted in the case. Moreover, the applicant had been assisted by counsel apparently familiar with the subject-matter and thus could not be considered to have had difficulties in arguing his case in writing. Also, as the cases had concerned the applicant's entitlement to benefits under a social-insurance scheme, no questions of public interest had been involved.

29. The Government also pointed out that the Administrative Court of Appeal had found it unnecessary to hold an oral hearing and that its decisions on this matter had been fully in line with domestic law. Furthermore, they maintained that, as the applicant had not requested the County Administrative Court to hold an oral hearing, he had, at least tacitly, waived his right to have his case heard in public before that judicial instance.

2. The applicant

30. The applicant maintained that the examination by the Administrative Court of Appeal under chapter 20, section 10 a of the 1962 Act had necessarily comprised an assessment of the facts of the case and had thus involved a determination of his "civil rights". Article 6 was thus applicable.

31. Moreover, the applicant submitted that an oral hearing could be dispensed with only if the person concerned had explicitly waived the right thereto and there were exceptional circumstances which justified not holding a hearing. He stated that the case had not mainly concerned points of law; rather, the assessment under chapter 20, section 10 a implied that the appellate court examine on the merits the new circumstances that had been invoked in the case. He claimed that the case could not have been decided only on the available medical certificates but had required also an assessment of the applicant's personal situation. It had therefore been indispensable to hold a hearing at which the applicant would have had an opportunity to complete the case file by giving an account of his medical situation and its effects on his everyday life, including his extra expenses and need of assistance. Also, the County Administrative Court had given judgment in his favour and the Administrative Court of Appeal had been

divided in rejecting his case. Thus, the case had been of a borderline nature which had further emphasised the need for an oral hearing. The new procedural situation in the appellate court – with the Board acting as opposing party – had also called for a hearing.

32. The applicant also found it remarkable that the appellate court had considered a hearing to be unnecessary without giving any further reasons. He therefore could not assess whether the decisions had been in compliance with the 1971 Act.

B. The Court's assessment

1. Applicability of Article 6 § 1

33. The Court observes that the proceedings at issue concerned the applicant's claim to benefits under a social-security scheme. They determined the preliminary question whether the Office's decision of 24 April 1987 had been based on obviously incomplete material and thus whether there was a basis under chapter 20, section 10 a of the 1962 Act to review that decision. It is true that the Administrative Court of Appeal, in finding that there was no such basis, did not formally examine the merits of the case. However, the preliminary question and the merits were indissociable in that an examination of the former necessarily involved an assessment of the merits. As is shown by the opinion of the dissenting judges in the appellate court and the judgment of the County Administrative Court, the conclusion that there was a basis to review the Office's original decision to refuse the applicant disability benefits necessarily led to a reversal of that decision and a finding that the applicant was entitled to the benefits in question. The Court further notes that, in appealing against the first instance judgment, the Board relied on the contention that it had not been shown that the applicant had a need of assistance or extra expenses which attained the level required under the 1962 Act and thus, in essence, argued on the merits of the applicant's claim. In the Court's opinion, these circumstances show that, in examining the Board's appeal and determining the preliminary question whether there was a basis for a review of the Office's original decision, the appellate court did not merely examine a procedural issue but in fact assessed the merits of the case. The Court therefore concludes that its examination involved a determination of "civil rights and obligations" and that the proceedings in the case accordingly fall within the scope of Article 6 § 1 (see, among other authorities, *Duclos v. France*, judgment of 17 December 1996, *Reports of Judgments and Decisions* 1996-VI, pp. 2179-80, § 53).

2. Compliance with Article 6 § 1

34. The Court first finds that the entitlement to a "public hearing" in Article 6 § 1 necessarily implies a right to an "oral hearing". However, the obligation under Article 6 § 1 to hold a public hearing is not an absolute one. Thus, a hearing may be dispensed with if a party unequivocally waives his or her right thereto and there are no questions of public interest making a hearing necessary. A waiver can be done explicitly or tacitly, in the latter case for example by refraining from submitting or maintaining a request for a hearing (see, among other authorities, *Håkansson and Sturesson v. Sweden*, judgment of 21 February 1990, Series A no. 171-A, p. 20, § 66; and *Schuler-Zgraggen v. Switzerland*, judgment of 24 June 1993, Series A no. 263, pp. 19-20, § 58).

Furthermore, a hearing may not be necessary due to exceptional circumstances of the case, for example when it raises no questions of fact or law which cannot be adequately resolved on the basis of the case-file and the parties' written observations (see, *mutatis mutandis*, *Fredin v. Sweden* (no. 2), judgment of 23 February 1994, Series A no. 283-A, pp. 10-11, §§ 21-22; and *Fischer v. Austria*, judgment of 26 April 1995, Series A no. 312, pp. 20-21, § 44).

35. In the present case, the Court notes that the applicant did not request a hearing before the County Administrative Court. As Section 9 of the 1971 Act provided that the proceedings before the administrative courts were normally in writing, the applicant could have been expected to request a hearing before that court if he attached importance to it. He did not do so, however, and the Court therefore finds that he can reasonably be considered to have waived his right to a hearing before the County Administrative Court.

Moreover, the Supreme Administrative Court only determined whether or not leave to appeal should be granted and, as a consequence of its refusal to grant leave, did not make a full examination of the applicant's case. Even assuming that Article 6 § 1 applies to the determination of this question, the Court finds that it could be adequately resolved on the basis of the case file and the written submissions and that, accordingly, the absence of an oral hearing before the Supreme Administrative Court was justified.

36. It remains to be determined whether the lack of an oral hearing before the Administrative Court of Appeal involved a breach of the applicant's rights under Article 6 § 1. In this connection, the Court reiterates that in proceedings before a court of first and only instance there is normally a right to a hearing (see, among other authorities, *Håkansson and Sturesson v. Sweden*, judgment cited above, p. 20, § 64). However, the absence of a hearing before a second or third instance may be justified by the special features of the proceedings at issue, provided a hearing has been held at first instance (see, for instance, *Helmers v. Sweden*, judgment of 29 October 1991, Series A no. 212-A, p. 16, § 36). Accordingly, unless

there are exceptional circumstances that justify dispensing with a hearing, the right to a public hearing under Article 6 § 1 implies a right to an oral hearing at least before one instance.

37. The Court notes that no hearing was held at first instance since the applicant did not request the County Administrative Court to hold one. It acknowledges that, in the interests of the proper administration of justice, it is normally more expedient that a hearing is held already at first instance rather than only before the appellate court. Depending on the circumstances of the case, it might therefore be acceptable to reject a request for a hearing upon appeal, although no such hearing has been held at first instance.

38. The Court further recognises that disputes concerning benefits under social-security schemes are generally rather technical and their outcome usually depends on the written opinions given by medical doctors. Many such disputes may accordingly be better dealt with in writing than in oral argument. Moreover, it is understandable that in this sphere the national authorities should have regard to the demands of efficiency and economy. Systematically holding hearings could be an obstacle to the particular diligence required in social-security cases (see *Schuler-Zgraggen v. Switzerland*, judgment cited above, pp. 19-20, § 58).

39. In the applicant's case, the Court observes that the jurisdiction of the Administrative Court of Appeal was not limited to matters of law but also extended to factual issues. The main issue in the case was whether the applicant's need of assistance and his additional costs attained the level required for a disability allowance under the 1962 Act. It is true that the written medical evidence was of considerable importance to the determination of this issue. However, this evidence, being clearly in the applicant's favour, was not a matter of dispute in the case. Instead, the outcome depended on an assessment of which needs and costs could be considered as deriving from the applicant's speech handicap and an estimation of the total amount of the various items. In requesting an oral hearing, the applicant stated, *inter alia*, that he wished to ask questions to the Board and that, in assessing his condition, the appellate court would benefit from having met him in person. In these circumstances, it appears that an oral hearing could have provided information of relevance to the determination of the case.

The Court also notes that the Administrative Court of Appeal gave judgment against the applicant whereas the County Administrative Court and a minority in the Administrative Court of Appeal found in favour of the applicant on the issue whether his needs and costs were such that he was eligible for a disability allowance.

40. Having regard to the foregoing, the Court cannot find that there were exceptional circumstances which justified dispensing with a hearing. Having expressly requested an oral hearing in the Administrative Court of

Appeal, the applicant was thus entitled to such a hearing before that instance.

The refusal by the Administrative Court of Appeal to hold an oral hearing amounted therefore to a violation of Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

41. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Legislative amendment

42. The applicant asked the Court to order the Swedish Government to undertake a reform of the law by which it should "take measures to preclude the occurrence of breaches of the Convention, such as occurred in respect of the applicant, in the future".

43. The Government maintained that legislative measures did not fall within the scope of Article 41 of the Convention.

44. The Court notes that the Convention does not empower it to order a State to alter its legislation; the Court's judgment leaves to the State the choice of the means to be used in its domestic legal system to give effect to its obligation under Article 46 § 1 (see, among other authorities, *Belilos v. Switzerland*, judgment of 29 April 1988, Series A no. 132, p. 33, § 78).

B. Damage

45. The applicant submitted that he had sustained pecuniary damage in that the County Administrative Court's judgment in his favour would not have been quashed by the Administrative Court of Appeal had the latter held an oral hearing in the case. He estimated that loss at SEK 86,123.

46. The Government contended that there was no causal link between a violation of Article 6 § 1 of the Convention and the applicant's claim for pecuniary damages.

47. The Court rejects the applicant's claim as it cannot speculate as to the outcome of the proceedings had a hearing taken place before the appellate court.

C. Costs and expenses

48. The applicant claimed SEK 41,250, including value-added tax (VAT), in legal fees for the domestic proceedings and SEK 103,000, excluding VAT, in legal fees and translation costs for the proceedings before the Commission and the Court. The legal fees corresponded to 41.25 hours of work for the applicant's first counsel in the domestic proceedings as well as 72 and 12 hours of work, respectively, for the two counsel in those before the Convention organs.

49. The Government considered the number of hours of work stated by the applicant to be excessive. Noting that the invoices submitted were not specified and that the translation costs were not supported by any documentation, they submitted that the legal fees incurred in the domestic proceedings seemed to relate to the case as a whole and not only to work pertaining to the requests for an oral hearing. As regards the work undertaken in the proceedings before the Convention organs, the Government pointed out that part of the application had been declared inadmissible by the Court on 4 May 2000 and contended that the change of counsel had entailed additional costs. If the Court were to find a violation in regard to the question of an oral hearing, they regarded as appropriate the award of a sum not exceeding SEK 31,500 in respect of costs and expenses.

50. The Court reiterates that only legal costs and expenses found to have been actually and necessarily incurred and which are reasonable as to quantum are recoverable under Article 41 of the Convention (see, among other authorities, *T.P. and K.M. v. the United Kingdom* [GC], no. 28945/95, 10 May 2001, § 120). Moreover, compensation for costs incurred in the domestic proceedings may only be granted in so far as they were necessary in trying to prevent the violation found (see *König v. Germany* (Article 50), judgment of 10 March 1980, Series A no. 36, p. 17, § 20). In the present case, the Court finds that only a smaller part of the stated costs incurred in the domestic proceedings can be considered to relate to the issue of an oral hearing. As regards the proceedings before the Convention organs, it further takes into account that the translation costs have not been substantiated and that the applicant was only partially successful with his application. Making an assessment on an equitable basis, the Court awards the applicant by way of costs and expenses the global sum of EUR 5,000, including VAT.

D. Default interest

51. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank to which should be added three percentage points (see *Christine Goodwin v. the United Kingdom* [GC], application no. 28957, § 124, to be published in ECHR 2002).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention as regards the lack of an oral hearing before the Administrative Court of Appeal;

2. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros) in respect of costs and expenses, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 12 November 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President

N.B.
M.O'B.