

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

Comité de filtrage/Screening Panel

AFFAIRE ILHAN c. AUTRICHE

CASE OF ILHAN v. AUSTRIA

(74/1997/858/1067)

DECISION

STRASBOURG

3 octobre/October 1997

In the case of Ilhan v. Austria[1],

The Screening Panel of the European Court of Human Rights, constituted in accordance with Article 48 § 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and Rule 26 of Rules of Court B[2],

Sitting in private at Strasbourg on 26 September 1997, and composed of the following judges:

Mr J. DE MEYER, *Chairman*,
Mr F. MATSCHER,
Mr N. VALTICOS,

and also of Mr H. PETZOLD, *Registrar*,

Having regard to the application against the Republic of Austria lodged with the Court on 7 July 1997 by a Turkish national, Mr Ismail Ilhan, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention;

Whereas Austria has recognised the compulsory jurisdiction of the Court (Article 46 of the Convention) and ratified Protocol No. 9 to the Convention, Article 5 of which amends Article 48 of the Convention so as to enable a person, non-governmental organisation or group of individuals having lodged a complaint with the European Commission of Human Rights ("the Commission") to refer the case to the Court;

Noting that the present case has not been referred to the Court by the Government of the respondent State or by the Government of the State of which the applicant is a national or by the Commission under Article 48 § 1 (a), (b) or (d) of the Convention;

Having regard to the Commission's report of 9 April 1997 on the application (no. 22961/93) lodged with the Commission by Mr Ilhan on 21 October 1993;

Whereas the applicant complained of an infringement of the rights of the defence because his lawyer had not been allowed to represent him in his absence at the hearing before the Feldkirch District Court, and alleged a breach of Article 6 § 1 of the Convention (right to fair trial) taken in conjunction with Article 6 § 3 (c) (right of a person charged with a criminal offence to legal assistance of his own choosing);

Notes by the Registrar

1. The case is numbered 74/1997/858/1067. 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 States bound by Protocol No. 9.

Whereas the applicant, in specifying the object of his application, as required by Rule 34 § 1 (a) of Rules of Court B, stated that he sought a decision by the Court holding that there had been a breach of Article 6 § 1 of the Convention taken in conjunction with Article 6 § 3 (c) and awarding him just satisfaction under Article 50 of the Convention;

Having regard to Article 48 of the Convention and Rule 34 §§ 1 (a), 3 and 4 of Rules of Court B,

1. *Finds* that
   (a) the case raises no serious question affecting the interpretation or application of the Convention, as the Court has already established case-law on the right of a person charged with a criminal offence, within the meaning of Article 6 § 1 of the Convention read in conjunction with Article 6 § 3 (c), to be represented in court by his lawyer in his absence; and
   (b) the case does not, for any other reason, warrant consideration by the Court as, in the event of a finding that there has been a breach of the Convention, the Committee of Ministers of the Council of Europe can award the applicant just satisfaction, having regard to any proposals made by the Commission;
2. *Decides*, therefore, unanimously, that the case will not be considered by the Court.

Done in English and in French, and notified in writing on 3 October 1997 pursuant to Rule 34 § 4 of Rules of Court B.

Signed: Jan DE MEYER
Chairman

Signed: Herbert PETZOLD
Registrar