AS TO THE ADMISSIBILITY OF

Application No. 17603/91
by E.S.
against Austria

The European Commission of Human Rights (Second Chamber) sitting in private on 1 September 1993, the following members being present:

MM. S. TRECHSEL, President
H. DANELIUS
G. JÖRUNDSSON
J.-C. SOYER
Mrs. G.H. THUNE
MM. F. MARTINEZ
L. LOUCAIDES
J.-C. GEUS
M.A. NOWICKI
I. CABRAL BARRETO

Mr. K. ROGGE, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 10 December 1990 by E.S. against Austria and registered on 7 January 1991 under file No. 17603/91;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is an Austrian citizen born in 1954. She lives in Steyr and is represented before the Commission by Mr. A. Friedberg, lawyer of Vienna.

The facts of the case, as submitted by the applicant's representative, may be summarised as follows.

Following the death of the applicant's maternal grandmother on 5 December 1983, proceedings took place to determine whether property forming part of the estate was an hereditary farm (Erbhof) within the meaning of the Hereditary Farms Act (Anerbengesetz), and to value and apportion the estate. The proceedings form the subject of Application No. 16494/90, in respect to which the Commission took a partial decision on 2 December 1991.

On 26 April 1990 the Supreme Court (Oberster Gerichtshof) rejected the applicant's further appeal (Revisionsrekurs) (decision received by the applicant's representative on 20 June 1990). It found that its decision earlier in the proceedings to take into account

potential use at the date of death in determining whether a farm was or was not an hereditary farm, was both reasonable and compatible with the legislation and its own decision in the case.

COMPLAINTS

The applicant alleges a violation of Article 6 para. 1 of the Convention and Article 1 of Protocol No. 1 by the above decision of the Supreme Court.

THE LAW

The applicant alleges a violation of Articles 6 (Art. 6) of the Convention and 1 of Protocol No. 1 (P1-1) with regard to the decision of the Supreme Court of 26 April 1990. The Commission notes that the question of the length of proceedings including the decision of 26 April 1990 is under consideration by the Commission in Application No. 16494/90. The present application accordingly deals solely with the question of the substantive effect of the decision of 26 April 1990.

With regard to the judicial decision of which the applicant complains, the Commission recalls that, in accordance with Article 19 (Art. 19) of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties in the Convention. In particular, it is not competent to deal with an application alleging that errors of law or fact have been committed by domestic courts, except where it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention. The Commission refers, on this point, to its constant case-law (see e.g. No. 458/59, Dec. 29.3.60, Yearbook 3 pp. 222, 236; No. 5258/71, Dec. 8.2.73, Collection 43 pp. 71, 77 ; No. 7987/77, Dec. 13.12.79, D.R. 18 pp. 31, 45).

The applicant's specific complaint is that it was wrong of the Supreme Court to accept that the question of whether the farm at issue was or was not an hereditary farm included consideration of the potential use to which this farm could be put.

The Commission has considered the applicant's complaints submitted to it and finds no indication of a violation of either of the provisions referred to by the applicant.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission unanimously

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the Second Chamber President of the Second Chamber

(K. ROGGE) (S. TRECHSEL)