CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

DECISION

Application no. 58468/00
by Alfred KIENDLER
against Austria

The European Court of Human Rights (Third Section), sitting on 14 December 2004 as a Chamber composed of:

Mr B.M. ZUPANČIČ, *President*,
Mr L. CAFLISCH,
Mr C. BÎRSAN,
Mr V. ZAGREBELSKY,
Mrs E. STEINER,
Mrs A. GYULUMYAN,
Mrs R. JAEGER, *judges*,
and Mr V. BERGER, *Section Registrar*

Having regard to the above application lodged on 12 October 1999,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having deliberated, decides as follows:

THE FACTS

The applicant, Alfred Kiendler, was an Austrian national who was born in 1920. He was represented before the Court by Mr Hans Werner Schmidt, a lawyer practising in Graz. The Austrian Government ("the Government") were represented by their Agent, Ambassador H. Winkler, Head of the International Law Department at the Federal Ministry of Foreign Affairs.

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant was a retired dentist. In 1960, he concluded a contract with the Styria Regional Health Insurance Board (*Gebietskrankenkasse*). In this context, he instituted numerous proceedings in order to contest the contributions he had to pay to the Styria Medical Association (*Ärztekammer*) on the basis of that contract.

1. First set of proceedings

On 12 April 1992 the applicant instituted proceedings against the Regional Insurance Board, requesting full reimbursement of the contributions paid to the Styria Medical Association between 1985 and 1991.

These proceedings were terminated by final decisions of the Constitutional Court (*Verfassungsgerichtshof*) on 7 June 1999 and 11 October 1999.

2. Second set of proceedings

This set of proceedings relates to notifications issued by the Administrative Committee (*Verwaltungsausschuss*) of the Styria Medical Association ordering the applicant to pay his yearly contribution to the pension and invalidity fund (*Vorschreibung der Kammerumlage*).

On 14 December 1999 the Administrative Court, in three identical decisions regarding the periods 1989-1993, 1994, and 1995-1996, dismissed as unfounded the applicant's complaint against these orders. These decisions were served on the applicant on 16 February 2000.

On 11 October 2004 the applicant's counsel informed the Court that the applicant had died. On 27 October 2004 the applicant's counsel further informed the Court that the applicant's heirs and family members did not wish to pursue the proceedings before the Court.

COMPLAINTS

The applicant complained under Article 6 of the Convention about the alleged unfairness and length of the two sets of proceedings. Further, relying on Article 1 of Protocol No. 1, he complained about the Austrian authorities' refusal to reimburse his annual contributions.

THE LAW

The Court takes note of the fact that the applicant died and that no member of his family or heir has expressed a wish to continue the proceedings before the Court in his stead.

In these circumstances, the Court concludes that it is no longer justified to continue the examination of the application and that it should be struck out of its list of cases under Article 37 § 1 (c) of the Convention. The Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine* that would require to continue the proceedings by the virtue of that provision. Consequently, the application of Article 29 § 3 of the Convention should be discontinued.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President