



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

CASE OF RADIO ABC v. AUSTRIA

(109/1996/728/925)

JUDGMENT

STRASBOURG

20 October 1997

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SUMMARY¹

Judgment delivered by a Chamber

Austria – impossibility of setting up and operating private radio stations (Regional Broadcasting Law)

I. ARTICLE 10 OF THE CONVENTION

“Interference” with applicant’s exercise of freedom to impart information or ideas – “prescribed by law” – legitimate aim.

Four different periods examined separately in order to determine whether interference was “necessary in a democratic society”.

First period (from application to Post and Telecommunications Regional Head Office to entry into force of Regional Broadcasting Law): applicant’s situation no different from that of applicants in case of Informationsverein Lentia and Others v. Austria – violation.

Second period (from entry into force of Regional Broadcasting Law to Constitutional Court’s judgment declaring certain provisions of that Law null and void): judgment concerned had put applicant back in legal situation which had obtained before Law’s entry into force, thus prolonging violation found in connection with first period.

Third period (from Constitutional Court’s judgment to entry into force of amendments to Regional Broadcasting Law): judgment concerned had prevented any further application of Regional Broadcasting Law pending entry into force of amendments thereto – violation found in connection with first two periods had continued during third.

Fourth period (since entry into force of amendments to Regional Broadcasting Law): Court not required to rule, as amended Law had not yet been applied to applicant.

Conclusion: violation (unanimously).

II. ARTICLE 50 OF THE CONVENTION

A. Pecuniary damage

Claim dismissed.

B. Costs and expenses

Reimbursed on an equitable basis.

1. This summary by the registry does not bind the Court.

Conclusion: respondent State to pay applicant specified sum for costs and expenses (unanimously).

COURT'S CASE-LAW REFERRED TO

25.3.1983, *Silver and Others v. the United Kingdom*; 26.11.1991, *Observer and Guardian v. the United Kingdom*; 24.11.1993, *Informationsverein Lentia and Others v. Austria*; 18.2.1997, *Nideröst-Huber v. Switzerland*

In the case of Radio ABC v. Austria¹,

The European Court of Human Rights, sitting, in accordance with Article 43 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) and the relevant provisions of Rules of Court B², as a Chamber composed of the following judges:

Mr R. RYSSDAL, *President*,

Mr THÓR VILHJÁLMSSON,

Mr F. MATSCHER,

Mr N. VALTICOS,

Sir John FREELAND,

Mr L. WILDHABER,

Mr G. MIFSUD BONNICI,

Mr K. JUNGWIERT,

Mr P. KŪRIS,

and also of Mr H. PETZOLD, *Registrar*, and Mr P.J. MAHONEY, *Deputy Registrar*,

Having deliberated in private on 28 May and 23 September 1997,

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

PROCEDURE

1. The case was referred to the Court on 28 August 1996 by the Government of the Republic of Austria (“the Government”) and by Radio ABC (Verein Alternative Broadcasting Corporation – “Radio ABC”), an association under Austrian law, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention. It originated in an application (no. 19736/92) against Austria lodged by Radio ABC with the European Commission of Human Rights (“the Commission”) under Article 25 on 30 December 1991.

The applications of the Government and Radio ABC referred to Article 48 of the Convention, as amended in respect of Austria by Protocol No. 9. The object of the applications was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 10 of the Convention.

Notes by the Registrar

1. The case is numbered 109/1996/728/925. 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.

2. In response to the enquiry made in accordance with Rule 35 § 3 (d) of Rules of Court B, the applicant association designated the lawyer who would represent it. The lawyer was given leave by the President to use the German language (Rule 28 § 3).

3. The Chamber to be constituted included *ex officio* Mr F. Matscher, the elected judge of Austrian nationality (Article 43 of the Convention), and Mr R. Ryssdal, the President of the Court (Rule 21 § 4). On 2 September 1996, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr B. Walsh, Mr N. Valticos, Sir John Freeland, Mr L. Wildhaber, Mr G. Mifsud Bonnici, Mr K. Jungwiert and Mr P. Kūris (Article 43 *in fine* of the Convention and Rule 21 § 5).

4. As President of the Chamber (Rule 21 § 6), Mr Ryssdal, acting through the Registrar, consulted the Agent of the Government, the applicant's lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 39 § 1 and 40). Pursuant to the order made in consequence, the Registrar received the Government's memorial on 21 February 1997 and the applicant's memorial on 26 and 27 February. On 7 May 1997 the Commission produced certain documents from the proceedings before it, as requested by the Registrar on the President's instructions. At the hearing Radio ABC's lawyer submitted a bill of costs in addition to the claims already submitted under Article 50 of the Convention.

5. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 27 May 1997. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) *for the Government*

Mr W. OKRESEK, Head of the Constitutional Service,
Federal Chancellery, *Agent;*

(b) *for the Commission*

Mr B. MARXER, *Delegate;*

(c) *for the applicant*

Mr H. WILLE, *Rechtsanwalt* (lawyer), of the Vienna Bar, *Counsel.*

The Court heard addresses by Mr Marxer, Mr Wille and Mr Okresek.

6. Subsequently, Mr Thór Vilhjálmsson, substitute judge, replaced Mr Walsh, who was unable to take part in the further consideration of the case.

AS TO THE FACTS

I. CIRCUMSTANCES OF THE CASE

7. Radio ABC is a non-profit-making association whose registered address is in Vienna. On 28 August 1989 it applied to the Post and Telecommunications Regional Head Office (*Post- und Telegraphendirektion*) for Vienna, Lower Austria and Burgenland for a licence to set up and operate a radio station and for allocation of a frequency on which it could broadcast programmes to the Vienna region.

8. On 9 January 1990 the Regional Head Office refused the above application. Relying on the Constitutional Law guaranteeing the independence of broadcasting (“the Constitutional Broadcasting Law”, see paragraph 16 below), which provided that activities of this type had to be authorised by federal legislation, it noted that such legislation had been enacted only in respect of the Austrian Broadcasting Corporation (*Österreichischer Rundfunk*, “the *ORF*”). Consequently, only the latter could operate in the field concerned.

9. On 25 September 1990 the Post and Telecommunications National Head Office (*Generaldirektion für die Post- und Telegraphenverwaltung*) dismissed an appeal by the applicant. It observed in particular that in its judgment of 16 December 1983 the Constitutional Court (*Verfassungsgerichtshof*) had held that the *ORF*'s monopoly was compatible with Article 10 of the Convention (see paragraph 18 below).

10. Radio ABC then applied to the Constitutional Court, arguing in particular that the National Head Office's decision was in breach of Article 10 of the Convention. It accepted that Article 10 permitted Contracting States to require the licensing of broadcasting enterprises, but submitted that since no such procedure had been laid down in Austrian law everyone had the right to broadcast freely.

11. On 30 September 1991 the Constitutional Court refused to consider the application, holding that, regard being had to its judgment of 16 December 1983, this did not have sufficient prospects of success.

12. After the entry into force, on 1 January 1994, of the Regional Broadcasting Law (see paragraph 19 below), the applicant association lodged two applications on 17 April 1994 in each of which it asked to be allocated one of the two frequencies reserved for private broadcasters in the Vienna region. On 25 January 1995 the Regional Broadcasting Authority (*Regionalradiobehörde*) gave two separate decisions refusing these applications on the ground that, regard being had to the requirements of section 20 (2) of the Regional Broadcasting Law, Radio ABC's programmes were too specialised for it to be able to give them priority over those of other applicants. Radio ABC then appealed against these decisions to the Constitutional Court.

13. As several other appeals of the same type had been lodged with it, the Constitutional Court began proceedings of its own motion, on 3 May 1995, to review the constitutionality of section 2 (1) to (3) and (5) of the Regional Broadcasting Law (see paragraph 19 below). On 27 September 1995 it annulled, with immediate effect, these provisions and the frequency allocation plan based on them (see paragraph 20 below), thereby invalidating the decisions concerning the appellants taken by the Regional Broadcasting Authority. The Constitutional Court held that the annulled provisions contravened the principle of legality (*Legalitätsprinzip*), since the conditions for their application were not indicated with sufficient precision. As a result, it continued, there was no longer any legal basis on which operating licences could be granted to radio stations, so that a situation incompatible with the Convention had been brought into being.

II. RELEVANT DOMESTIC LAW

A. The Telecommunications Law of 13 July 1949

14. According to the Telecommunications Law (*Fernmeldegesetz*) of 13 July 1949, "the right to set up and operate telecommunications installations (*Fernmeldeanlagen*) is vested exclusively in the federal authorities (*Bund*)" (section 2 (1)). The latter may however confer on natural or legal persons the power to exercise that right in respect of specific installations (section 3 (1)). No licence is required in certain circumstances, including the setting up of an installation within the confines of a private property (section 5).

B. The Ministerial Ordinance of 18 September 1961 concerning private telecommunications installations

15. The Ministerial Ordinance of 18 September 1961 concerning private telecommunications installations (*Verordnung des Bundesministeriums für Verkehr und Elektrizitätswirtschaft über Privatfernmeldeanlagen*) lays down, *inter alia*, the conditions for setting up and operating private telecommunications installations subject to federal supervision. According to the case-law, it cannot however constitute the legal basis for the grant of licences.

C. The Constitutional Law of 10 July 1974 guaranteeing the independence of broadcasting

16. According to section 1 of the Constitutional Law of 10 July 1974 guaranteeing the independence of broadcasting (*Bundesverfassungsgesetz über die Sicherung der Unabhängigkeit des Rundfunks*),

“...

2. Broadcasting shall be governed by more detailed rules to be set out in a federal law. Such a law must *inter alia* contain provisions guaranteeing the objectivity and impartiality of reporting, the diversity of opinions, balanced programming and the independence of persons and bodies responsible for carrying out the duties defined in paragraph 1.

3. Broadcasting within the meaning of paragraph 1 shall be a public service.”

D. The Law of 10 July 1974 on the Austrian Broadcasting Corporation

17. The Law of 10 July 1974 on the Austrian Broadcasting Corporation (*Bundesgesetz über die Aufgaben und die Einrichtung des Österreichischen Rundfunks*) established the Austrian Broadcasting Corporation with the status of an autonomous public-law corporation.

It is under a duty to provide comprehensive news coverage of major political, economic, cultural and sporting events; to this end, it has to broadcast, in compliance with the requirements of objectivity and diversity of views, in particular current affairs, news reports, commentaries and critical opinions (section 2 (1) (1)), and to do so via at least two television channels and three radio stations, one of which must be a regional station (section 3). Broadcasting time must be allocated to the political parties represented in the national parliament and to representative associations (section 5 (1)).

A supervisory board (*Kommission zur Wahrung des Rundfunkgesetzes*) rules on all disputes concerning the application of the above-mentioned law which fall outside the jurisdiction of an administrative authority or court (sections 25 and 27). It is composed of seventeen independent members, including nine judges, appointed for terms of four years by the President of the Republic on the proposal of the federal government.

E. The Constitutional Court's judgment of 16 December 1983

18. In a judgment of 16 December 1983 the Constitutional Court held that the freedom to set up and operate radio and television broadcasting stations was subject to the powers accorded to the legislature under paragraph 1 *in fine* and paragraph 2 of Article 10 of the Convention (*Gesetzesvorbehalt*). The Constitutional Broadcasting Law had instituted a system which made all activity of this type subject to the grant of a licence by the federal legislature. This system was intended to ensure objectivity and diversity of opinions (*Meinungsvielfalt*), and would be ineffective if it were possible for everybody to obtain the requisite authorisation. As matters stood, the right to broadcast was restricted to the *ORF*, as no implementing legislation had been enacted in addition to the law governing that organisation (see the *Informationsverein Lentia and Others v. Austria* judgment of 24 November 1993, Series A no. 276, pp. 8–9, § 10).

F. The Regional Broadcasting Law of 1993

19. The Regional Broadcasting Law of 9 July 1993 (*Regionalradiogesetz*), which came into force on 1 January 1994, governs the licensing of local and regional radio stations. Before the judgment of 27 September 1995 (see paragraph 13 above) section 2 provided:

“1. In agreement with the General Purposes Committee of the National Assembly (*Hauptausschuß des Nationalrates*), the Federal Minister for Economic Affairs and Transport shall, by means of an ordinance (the frequency allocation plan – *Frequenznutzungsplan*), allocate terrestrial sound radio broadcasting capacities (*drahtlose terrestrische Übertragungskapazitäten für Hörfunk*), defined in terms of frequency and broadcasting location, to the Austrian Broadcasting Corporation and radio stations (*Programmveranstalter*).

2. In making the above allocation, the Federal Minister for Economic Affairs and Transport shall ensure:

(1) that there is no impediment to performance by the Austrian Broadcasting Corporation of the tasks imposed on it by law in the field of sound radio broadcasts;

(2) that radio stations are able to reach the widest possible audience within any one *Land*; and

(3) that attention is paid to the needs of local sound radio.

3. In the above-mentioned frequency allocation plan the Federal Minister for Economic Affairs and Transport shall, after consulting the *Länder* concerned and in agreement with the General Purposes Committee of the National Assembly, assign in accordance with paragraph 2, sub-paragraphs 2 and 3, each of the frequencies and broadcasting locations available for use by radio stations to an individual licence to broadcast within the *Länder*. In so doing he shall have particular regard to local topography, population density, technical parameters and Austria's international obligations in the field of telecommunications.

...

5. In urgent individual cases the telecommunications authorities (*Fernmeldebehörde*) may take decisions at variance with the frequency allocation plan, provided that within six months the plan is modified accordingly in conformity with paragraph 3."

Section 4 requires the programmes of private radio stations to respect the principles of objectivity and diversity of opinion and to reflect the public, cultural and economic life of the region in which they are broadcast. Section 13 instituted regional broadcasting authorities (*Regionalradiobehörde*). Under section 20 (2), where a number of private broadcasters satisfying the statutory conditions apply for a licence, the regional broadcasting authority must give priority to the one which comes closest to achieving the objectives laid down in the Law, for example by reflecting a greater diversity of opinion.

20. On 27 September 1995 the Constitutional Court declared paragraphs 1 to 3 and 5 of section 2 null and void; accordingly, the frequency allocation plan based on them was likewise void.

21. On 1 May 1997 the amendments replacing the annulled provisions came into force.

PROCEEDINGS BEFORE THE COMMISSION

22. The applicant association applied to the Commission on 30 December 1991. It alleged that the refusal to grant it an operating licence constituted an unjustified interference with its right to impart information and was in breach of Article 10 of the Convention.

23. The Commission (First Chamber) declared the application (no. 19736/92) admissible on 18 October 1995. In its report of 11 April 1996 (Article 31), it expressed the unanimous opinion that there had been a

breach of Article 10. The full text of the Commission's opinion is reproduced as an annex to this judgment¹.

FINAL SUBMISSIONS TO THE COURT

24. In its memorial the applicant association asked the Court to

“hold that the Austrian authorities' decisions ... and the Austrian Constitutional Court's judgment of 30 September 1991 ... either wholly or partly breach Austria's obligations under the European Convention on Human Rights”.

25. In their memorial the Government made the following submission:

“In respect of these considerations and of the fact that the applicant association has no absolute right under Article 10 of the Convention to be granted a broadcasting licence, the Austrian Federal Government are of the opinion that there has been no breach of Article 10 of the Convention.”

AS TO THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

26. The applicant association complained that it had been unable to obtain a broadcasting licence, contrary to Article 10 of the Convention, which provides:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

1. *Note by the Registrar.* For practical reasons this annex will appear only with the printed version of the judgment (in *Reports of Judgments and Decisions* 1997), but a copy of the Commission's report is available from the registry.

27. The Court notes that the restriction complained of amounts to an “interference” with the applicant association’s exercise of its freedom to impart information and ideas; that was not contested, moreover, by any of the participants in the proceedings. Accordingly, only the question whether the restriction was justified arises.

28. In its *Informationsverein Lentia and Others v. Austria* judgment the Court held that, through the supervisory powers over the media it conferred on the authorities, the monopoly system operated in Austria was capable of contributing to the quality and balance of programmes and was consistent with the third sentence of paragraph 1 of Article 10 (judgment of 24 November 1993, Series A no. 276, p. 15, § 33). Nevertheless, as in that judgment, it remains to be determined whether in the instant case the system concerned also satisfied the relevant conditions of paragraph 2 of Article 10.

29. The interference complained of was – and this was not disputed by any of the participants in the proceedings – “prescribed by law”. Its aim has already been held by the Court to be a legitimate one (see paragraph 28 above). On the other hand, a problem arises in connection with the question whether the interference was “necessary in a democratic society”.

30. In assessing the need for an interference the Contracting States enjoy a margin of appreciation, but that margin goes hand in hand with European supervision. Where, as in the present case, there has been an interference with the exercise of the rights and freedoms guaranteed in paragraph 1 of Article 10, the supervision must be strict because of the importance – frequently stressed by the Court – of the rights in question. The necessity for any restriction must be convincingly established (see, among other authorities, the *Informationsverein Lentia and Others* judgment cited above, p. 15, § 35).

In order to determine whether that is so in the present case, the Court will consider each of four different periods separately.

(a) First period: from the application to the Post and Telecommunications Regional Head Office (28 August 1989) to the entry into force of the Regional Broadcasting Law (1 January 1994)

31. The Court notes that during this first period there was no legal basis whereby an operating licence could be granted to any station other than the Austrian Broadcasting Corporation. In that respect the situation of Radio ABC was therefore no different from that of the applicants in the *Informationsverein Lentia and Others* case mentioned above. Moreover, the participants in the proceedings agreed on that point.

Accordingly, there was a breach of Article 10 during the period in question.

(b) Second period: from the entry into force of the Regional Broadcasting Law (1 January 1994) to the Constitutional Court's judgment declaring certain provisions of that Law null and void (27 September 1995)

32. The Government emphasised that Parliament's intention in adopting the Regional Broadcasting Law (see paragraph 19 above) had been to draw the consequences for Austria of the Informationsverein Lentia and Others judgment cited above, but submitted that this judgment had not established an unconditional right for every radio station to obtain a broadcasting licence. On the contrary, it had recognised the State's responsibility to preserve diversity of opinions and the objectivity and impartiality of the media, and consequently the need to impose, for that purpose, certain restrictions on freedom of expression. That was why the operating licence sought by the applicant association had been refused.

33. The Court observes that, in its Informationsverein Lentia and Others judgment, it held that the purpose of the third sentence of paragraph 1 of Article 10 was to make it clear that States are permitted to regulate by a licensing system the way in which broadcasting is organised in their territories, particularly in its technical aspects. Technical aspects are undeniably important, but the grant or refusal of a licence may also be made conditional on other considerations, including such matters as the nature and objectives of a proposed station, its potential audience at national, regional or local level, the rights and needs of a specific audience and the obligations deriving from international legal instruments (judgment cited above, p. 14, § 32).

In the same judgment the Court noted that, as a result of the technical progress made over the last decades, justification for restrictions like the one in issue could no longer be found in considerations relating to the number of frequencies and channels available (p. 16, § 39). It is therefore surprising that only two frequencies were reserved for private radio stations transmitting in the Vienna region. However, it is not necessary for the Court to consider whether such a restriction is compatible with Article 10 § 2, as it resulted from a law of which certain provisions were declared null and void by the Constitutional Court (see paragraph 13 above), and as this invalidated the decisions refusing Radio ABC's applications, it put the association back in the legal situation which had obtained before that law's entry into force, thus prolonging the violation of Article 10 already found in connection with the first period (see paragraph 31 above).

(c) Third period: from the Constitutional Court's judgment (27 September 1995) to the entry into force of the amendments to the new Regional Broadcasting Law (1 May 1997)

34. The Government submitted that the applicant's situation had improved following the Constitutional Court's judgment, in that if the Constitutional Court had not declared certain provisions of the Regional Broadcasting Law null and void (see paragraph 13 above), the refusal of its applications would have been final (see paragraph 12 above). It was now possible, however, with the entry into force of the amendments to the Regional Broadcasting Law (see paragraph 21 above), for the applicant association to resubmit an application.

35. The Court notes that the Constitutional Court's judgment of 27 September 1995 not only invalidated the decisions refusing Radio ABC's applications, it also prevented any further application of the Regional Broadcasting Law pending the entry into force of the amendments thereto. Accordingly, the violation of Article 10 already found in connection with the first two periods (see paragraphs 31 and 33 above) continued during the third. Indeed, the Constitutional Court itself found this situation to be in breach of the Convention (see paragraph 13 above).

(d) Fourth period: since the entry into force of the amendments to the Regional Broadcasting Law (1 May 1997)

36. At the hearing the Government informed the Court that the amendments replacing the provisions of the Regional Broadcasting Law declared null and void by the Constitutional Court had entered into force on 1 May 1997 (see paragraph 21 above). Under these amendments licence applications could be lodged between 1 May and 12 June 1997 and had to be determined by a decision of the relevant authorities by 31 August 1997 at the latest.

37. The Court notes that on 27 May 1997, the date of the hearing, the amended version of the Regional Broadcasting Law had not yet been applied to the applicant association, which by that time had not submitted a licence application either. Consequently, the Court is not required to rule on the fourth period, as it is not its task to rule *in abstracto* whether legislation is compatible with the Convention (see, among other authorities, the *Silver and Others v. the United Kingdom* judgment of 25 March 1983, Series A no. 61, p. 31, § 79, and the *Observer and Guardian v. the United Kingdom* judgment of 26 November 1991, Series A no. 216, p. 32, § 63). It notes with satisfaction, however, that Austria has introduced legislation to ensure the fulfilment of its obligations.

(e) Conclusion

38. In conclusion, there has been a breach of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 50 OF THE CONVENTION

39. Article 50 of the Convention provides:

“If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Pecuniary damage

40. In respect of pecuniary damage, Radio ABC claimed 48,000,000 Austrian schillings (ATS), representing the surplus (*Überschuß*) which the applicant association's activity would have generated if it had been able to broadcast from 1 January 1990 onwards.

41. The Court takes the view that this claim is based on the assumption that the applicant would have obtained the licence it sought if Austrian legislation had complied with Article 10. That assumption, however, is speculative, regard being had to the authorities' discretion in this sphere, as the Delegate of the Commission rightly emphasised. Accordingly, no compensation is payable under this head.

B. Costs and expenses

42. In respect of the fees for its legal representation before the national authorities, and later before the Convention institutions, the applicant association claimed ATS 846,011.

43. The Delegate of the Commission considered that sum to be “very high”, while the Government agreed to pay ATS 165,000, as in the *Informationsverein Lentia and Others* case cited above, if the Court were to find a violation.

44. Making an assessment on an equitable basis and having regard to the criteria laid down in its case-law (see, among other authorities, the *Nideröst-Huber v. Switzerland* judgment of 18 February 1997, *Reports of Judgments and Decisions* 1997-I, p. 110, § 40), the Court awards ATS 200,000 under this head.

C. Default interest

45. According to the information available to the Court, the statutory rate of interest applicable in Austria at the date of adoption of the present judgment is 4% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 10 of the Convention;
2. *Holds*
 - (a) that the respondent State is to pay to the applicant association, within three months, 200,000 (two hundred thousand) Austrian schillings in respect of costs and expenses;
 - (b) that simple interest at an annual rate of 4% shall be payable from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 20 October 1997.

Signed: Rolv RYSSDAL
President

Signed: Herbert PETZOLD
Registrar