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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 36404/97
by Joni PURMONEN and Others
against Finland

The European Court of Human Rights (Fourth Section), sitting on 20 May 2003 as a Chamber composed of

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Mr J. BORREGO BORREGO, *judges*,

and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having regard to the above application lodged with the European Commission of Human Rights on 20 May 1997,

Having regard to Article 5 § 2 of Protocol No. 11 to the Convention, by which the competence to examine the application was transferred to the Court,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

The sixteen applicants, all Finnish citizens, are listed in the Annex. They are represented before the Court by Ms Johanna Ojala and Ms Kirsi Tarvainen, lawyers practising in Helsinki. The respondent Government are represented by their Agent, Mr Arto Kosonen, Director in the Ministry for Foreign Affairs.

A. The circumstances of the case

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

On 25 November 1995 a group of young people organised a sit-in on the premises of a department store in Helsinki, Oy Stockmann Ab (presently Oyj Stockmann Abp; henceforth "Stockmann"), criticising it for selling fur coats, whereby it was participating in animal cruelty. Around the same time various pamphlets and posters had appeared in Helsinki, criticising the fur trade in general and Stockmann in particular. The group had to be forcibly removed from the store.

In March 1996 Stockmann requested a pre-trial investigation into "the distribution to the public of printed matters purported to be produced on the company's behalf but which had not been commissioned by [it]". Should the police find that a criminal offence had been committed, Stockmann requested that the matter be brought to the attention of the public prosecutor. The request was registered as a matter of suspected public defamation.

In the ensuing pre-trial investigation 36 persons, including the applicants, were heard as suspects of public defamation.

On 11 April 1996 the police conducted a search at the home of Mr Miettinen, relying on chapter 4, section 1, and chapter 5, section 1 of the Coercive Measures Act (*pakkokeinolaki, tvångsmedelslagen* 450/1987). According to the minutes, the search was carried out for the purpose of an investigation into malicious damage (*vahingonteko, skadegörelse*) of which his room mates – A.L. (not an applicant) and Ms Karjalainen – had been suspected. The police seized pamphlets critical of Stockmann's sale of fur products as well as letters related to Mr Miettinen's participation in an association of anti-fur activists.

On 13 June 1996 the police searched the homes of Ms Mikola and Ms Soini. According to the minutes, the searches were carried out "for other investigation purposes". The police seized pamphlets and documents related to Ms Mikola's participation in the same association of anti-fur activists. At the home of Ms Soini the police seized similar pamphlets, diaries from the years 1994-1995 and a telephone note book.

On 20 June 1996 the police returned to Ms Mikola some of the seized material, retaining eight pamphlets stating, *inter alia*: “Stockmann supports trading in carcasses” (*Stocka [Stockmann] tukee raatokauppaa*).

On 26 June 1996 the police returned two of Ms Soini’s diaries, keeping a third one until 9 September 1996.

On 18 October 1996 the District Court (*käräjäoikeus, tingsrätten)* of Helsinki maintained the seizures of Ms Mikola’s and Ms Soini’s materials until 31 December 1996. The seizures were later extended until 31 January 1997.

In January 1997 applicants Sami and Sanna Seppilä, Soini, Uosukainen, Karjalainen, Särkisilta, Kaihovaara, Pelkonen, Riska, Karlstedt, Salonen, Miettinen and Mikola were charged with a violation of Stockmann’s domiciliary peace (*kotirauhan rikkominen, hemfridsbrott)* and a violation of the Police Act, both committed on 25 November 1995. All except applicants Sami Seppilä, Uosukainen, Karlstedt and Miettinen had been minors at the time of the offence.

In addition, applicants Soini, Therman and Mustonen were charged with having defamed Stockmann in public while being minors. Applicants Uosukainen and Karjalainen were charged with the same offence but had no longer been minors when committing the offence, namely between the summer of 1995 and the summer of 1996. In the alternative, all except Karjalainen were charged with common nuisance.

Mr Purmonen was charged with incitement to one or the other of those offences.

In addition, applicants Sami Seppilä, Soini, Särkisilta and Salonen were charged with some further offences.

On 2 April 1997 Ms Soini requested that the seizure of her possessions be lifted. The District Court having maintained the seizures, she appealed to the Court of Appeal (*hovioikeus, hovrätten*) of Helsinki.

On 15 May 1997 the police lifted the seizure and returned the remaining material to Ms Soini and Ms Mikola. On 17 July 1997 the Court of Appeal found that since the police had already returned the material seized from Ms Soini it was not necessary to examine her appeal.

Meanwhile, on 18 June 1997 applicants Sanna Seppilä, Soini, Uosukainen, Särkisilta, Kaihovaara, Pelkonen, Riska, Karlstedt, Salonen, Miettinen and Mikola were convicted in accordance with the principal charge and sentenced to forty, fifty or sixty days’ conditional imprisonment respectively. Mr Sami Seppilä was likewise convicted – except on one count not relevant to this case – and given a longer conditional prison sentence coupled with a fine.

Applicants Purmonen, Therman and Mustonen were acquitted.

The District Court adjourned its examination of the charges against Ms Karjalainen and others (not applicants in this case) who had not been summoned in time.

On 10 September 1997 applicant Karjalainen was apparently acquitted.

On 22 June 1999 the Court of Appeal reversed the District Court's judgment by acquitting all twelve convicted applicants in so far as they had been found guilty of violating domiciliary peace. The court considered that Stockmann's shop premises, being accessible to the public, could not be considered a domicile for the purposes of the relevant provision of the Penal Code. While upholding these applicants' convictions of one or several other offences the court reduced their sentences to fines.

B. Relevant domestic law and practice

Freedom of expression

Article 10 of the Constitution Act (*Suomen Hallitusmuoto, Regeringsform för Finland*, as amended by Act no. 969/1995 and in force at the relevant time, provided, in so far as relevant, as follows:

> "Everyone has the freedom of expression. Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. More detailed provisions on the exercise of the freedom of expression are laid down by an Act. ..."

The same provision appears in the current Constitution of 2000 (731/1999, section 12).

Defamation

According to chapter 27 of the Penal Code (*rikoslaki, strafflagen*), as in force at the relevant time, a person alleging, either contrary to his or her better knowledge or without better knowledge, that someone had committed an offence was to be convicted of defamation, unless he or she could show probable cause in support of the allegation. If the defamation took place in public or, for example, by means of a printed matter, the sentence could be increased. The injured party was required to report the offence before the public prosecutor may bring charges (sections 1-2 and 8).

The current chapter 24, section 9, subsection 2 of the Penal Code, as amended by Act no. 531/2000, provides that where criticism is aimed at the conduct of another person in his or her political or business activity, public office or function, scientific, artistic or other comparable public activity, and where this criticism clearly does not exceed the limits of acceptable conduct, it shall not be considered defamation within the meaning of subsection 1. Whereas only a natural person may be considered a victim of defamation, legal persons may be afforded indirect protection as in some cases defamation addressed at a legal person may also be considered to concern individuals employed by that legal person (see Government Bill no. 184/1999, p. 34).

The Freedom of the Press Act

The 1919 Act on Freedom of the Press (*painovapauslaki, tryckfrihetslagen* 1/1919) confirms the right to disseminate printed matters without prior censorship (section 1). A "printed matter" shall mean any writing which has been reproduced with a printing machine or by some other comparable means (section 2).

The Ministry of Justice shall monitor compliance with the Act and may order that charges be brought and that specific printed matters be seized (sections 40-42). In practice the Ministry has been deemed competent to order that charges be brought only if they could be brought by the public prosecutor of his or her own motion, and not when the injured party is required to report the offence for the purpose of having charges brought (Report of the Committee considering new legislation on the freedom of the media, no. 1997:3, p. 136). A public prosecutor or a police commander may, of his or her own motion, order the seizure of a printed matter without a prior order by the Ministry of Justice. The Ministry must be informed of such a seizure within 24 hours.

If charges may not be brought on the prosecutor's own initiative, the seizure may only be ordered on the request of the allegedly injured party. After charges have been brought the court examining the case has the exclusive competence in respect of seizures (section 42).

The Ministry of Justice shall, within a matter of days, submit any seizure order for review by a court. The court shall either confirm or revoke the order within four days. If that time-limit is not respected the seizure will expire. If charges are not brought within fourteen days from the court's confirmation of the seizure, the court shall pronounce the expiry of the seizure (sections 44-45).

Guiding principles for the conduct of pre-trial investigations and the use of coercive measures

Section 8 of the Pre-Trial Investigation Act (*esitutkintalaki, förundersökningslagen* 449/1987) stipulates that in a criminal investigation no one's rights shall be infringed any more than necessary for the achievement of its purpose. No one shall be placed under suspicion without due cause and no one shall be subjected to harm or inconvenience unnecessarily.

Chapter 7, section 1 a, of the Coercive Measures Act provides that such measures may only be used where they can be deemed justified in light of the seriousness of the offence under investigation, the importance of the investigation, the degree of interference with the rights of the suspect or

other persons subject to the measures as well as in light of any other pertinent circumstances.

Conditions for search and seizure

By chapter 5, section 1 of the Coercive Measures Act, a search of premises may be carried out, if there is reason to suspect that an offence has been committed which carries a maximum punishment of imprisonment exceeding six months.

By Chapter 4, section 1 of the Coercive Measures Act, an object may be seized where there are reasons to presume that it may serve as evidence in criminal proceedings, has been removed from someone through an offence or is likely to be confiscated by a court order. According to section 11, a seizure shall be lifted as soon as it is no longer necessary. If charges have not been brought within four months of the seizure the court may extend it at the request of a police officer competent to issue arrest warrants.

Discontinuation of a pre-trial investigation

Section 43, subsection 2 of the Pre-Trial Investigation Act provides that when it has been decided that the case will not be submitted to the prosecutor, that decision shall without delay be notified to the persons who have been questioned as parties, unless this is deemed unnecessary.

COMPLAINTS

1. Applicants Soini, Miettinen and Mikola complain under Article 6 of the Convention that they did not receive a fair trial since the proceedings concerning the seizures did not comply with national law.

2. Applicants Soini, Miettinen and Mikola also complain under Article 8 of the Convention that the searches of their homes and the seizures of their pamphlets and other material violated their right to respect for their private lives.

In so far as the material comprised printed matters the seizures allegedly did not comply with the Freedom of the Press Act.

Nor did the seizures take place in accordance with the Coercive Measures Act, given that an investigation into offences which these applicants were not suspected of having committed or for the furthering of “other investigation purposes” did not qualify as an exceptional ground for a seizure within the meaning of chapter 5, section 1 of the Act.

At any rate, the seizures went beyond what was necessary for the investigation purposes. In particular, Ms Soini’s diaries from 1994-95, when

she had been in her early teens, could not have been instrumental for the investigation into an offence which she was suspected of having committed between the summer of 1995 and the summer of 1996.

3. All of the applicants complain under Articles 10 and 17 that their freedom of expression was violated already on account of the pre-trial investigation during which they were questioned as well as on account of the charges brought against some of them.

In addition, applicants Soini, Miettinen and Mikola argue that the seizure of material from their homes violated their freedom of expression. Instead of photocopying the material and returning the originals the police maintained its seizures for a purpose unrelated to its investigation, namely to prevent these applicants from expressing themselves through their pamphlets. Ms Mikola's freedom of expression was violated in a particularly egregious manner as her possessions remained seized past the expiry date of 31 January 1997, even though they could have had no relevance to the sole charge against her, namely for violation of domiciliary peace. These three applicants additionally invoke Article 18 of the Convention.

4. All of the applicants complain under Articles 3 and 8 of the Convention that during the pre-trial investigation and even though they were under 18 years of age, they were questioned by the police on several occasions and pressured to answer questions concerning their private life which had nothing to do with the offences under investigation.

5. All of the applicants complain under Articles 11 and 14 of the Convention that the pre-trial investigation violated their right to freedom of peaceful assembly and to freedom of association with others. Because of their anti-fur opinions and actions the investigation was conducted against them in a discriminatory manner. By comparison, the police has not been investigating offences possibly committed by skinheads with the same zeal.

6. Applicants Sami and Sanna Seppilä, Karjalainen, Särkisilta, Kaihovaara, Pelkonen, Riska, Karlstedt, Salonen, Miettinen and Mikola complain under Article 13 of the Convention that although they were questioned as suspects, no charges have been brought against them, nor have they been notified that the investigation has been closed or that charges will not be brought. They have no effective remedy whereby they could challenge the still lingering suspicions against them.

7. Applicants Soini, Miettinen and Mikola finally complain under Article 1 of Protocol 1 that the seizure of their pamphlets was an illegal interference with their right to the peaceful enjoyment of their possessions.

THE LAW

1. Applicants Soini, Miettinen and Mikola have complained under Article 6 of the Convention that they did not receive a fair trial since the proceedings concerning the seizures did not comply with national law. In so far as relevant to the present case, Article 6 reads as follows:

> "1. In the determination ... of any criminal charge against him, everyone is entitled to a fair ... hearing within a reasonable time by an independent and impartial tribunal established by law. ...

The Court notes that the proceedings complained of were only related to the seizures and did not amount to a "determination" of a "criminal charge" against the applicants. Article 6 § 1 does not therefore apply.

It follows that this part of the complaint is incompatible *ratione materiae* with the provisions of the Convention and must be rejected in accordance with Article 35 §§ 3 and 4.

2. Applicants Soini, Miettinen and Mikola have also complained that the searches and seizures of the pamphlets and diaries violated their right to respect for their private lives. They contend that the searches did not comply with national law. The applicants invoke Article 8 of the Convention which reads as follows:

> "1. Everyone has the right to respect for his private ... life, ...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

While accepting that applicants Soini and Mikola may claim to be victims of a violation of their rights under this provision, the Government consider that Mr Miettinen cannot claim such status within the meaning of Article 34 of the Convention. Neither at the time of the search and seizure nor later on did he admit that the material seized from his home actually belonged to him. At any rate, as he did not request in the domestic proceedings that the material be returned to him, he has not exhausted domestic remedies in this respect.

In the alternative, the Government concede that the coercive measures interfered with the three applicants' rights under Article 8. They were duly based on the Coercive Measures Act. With certain exceptions aiming at protecting the rights of a witness, a private document such as a diary may be seized on the same grounds as any other possessions. A letter relating to Mr Miettinen's and Ms Mikola's membership of an association of anti-fur activists was no longer in a closed envelope at the time of the seizure, in

which case it would have had to be opened by the head of the investigation, a prosecutor or by the court.

The coercive measures furthermore served the legitimate aims of protecting the reputation or rights of Stockmann and of preventing crime. As for the necessity of the measures, the police and the courts applied the principle of proportionality and the principle of least harm. In particular, the duration of the seizure of Ms Soini's diaries, considering also her young age, was proportionate to the seriousness of the offence under investigation. As her diaries were returned on 26 June and 9 September 1996 the duration of these seizures cannot be considered unreasonably long.

The Court considers, in the light of the parties' submissions, that this complaint raises such serious issues of fact and law under the Convention – including the question whether all three applicants may claim status as "victims" within the meaning of Article 34 – that their determination requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

3. The applicants have complained under Articles 10 and 17 of the Convention that the pre-trial investigation and the charges brought against some of the applicants violated the freedom of expression of them all. In addition, applicants Soini, Miettinen and Mikola argue that the seizures violated their freedom of expression. Instead of photocopying the pamphlets and returning the originals the police used the coercive measures to prevent these applicants from expressing themselves. These applicants also invoke Article 18.

Article 10 reads as follows:

> "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."

Article 17 reads as follows:

> "Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

Article 18 reads as follows:

> “The restrictions permitted under [the] Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.”

The Government question whether the applicants may claim to be a victim of a violation of Article 10 solely on account of the pre-trial investigation or in relation to the charges brought against some of them. Were the Court to find that all of the applicants may claim to be victims of a violation of Article 10, even though none of them were convicted of public defamation, the Government concede that regulating the contents of their communications through the application of criminal law interfered with their freedom of expression under Article 10. Once Stockmann had reported the offence to the police it was under an obligation to open an investigation. Moreover, while not finding it proven that Stockmann had been defamed in public, the District Court nevertheless accepted that the company could be considered a complainant, even though a legal person. The investigation did not limit the applicants’ freedom of expression in a manner which could be deemed unnecessary in a democratic society.

The Government furthermore concede that there was an interference by a public authority with the exercise of Ms Soini’s and Ms Mikola’s freedom of expression on account of the coercive measures taken against them. The Government consider, however, that Mr Miettinen cannot claim to have been a victim of a violation of Article 10, given that he never claimed ownership of the possessions seized from his home and at any rate failed to exhaust domestic remedies by seeking their return.

In the Government’s view the interference resulting from the coercive measures was prescribed by law. As the seizures mainly served the purpose of obtaining evidence the Freedom of the Press Act was not applicable. The conditions for the search as prescribed by the Coercive Measures Act were met, given that the investigation concerned suspected public defamation which carries a maximum sentence of two years’ imprisonment. It is true that the records of the coercive measures taken in the homes of Ms Soini and Ms Mikola only referred to “other investigations”. This deficiency – due to the number of different offences of which a large number of persons were suspected – was corrected in the proceedings before the District Court.

The Government further submit that the coercive measures served the legitimate aims of protecting the reputation or rights of Stockmann and of preventing crime. The domestic court’s assessment of the need to maintain the seizure of some of the material should be accepted. In the special circumstances the measures taken – and which did not include any conviction of public defamation – were not disproportionate to the legitimate aim pursued and the authorities and courts did not exceed their margin of appreciation.

The Court considers, in the light of the parties' submissions, that in so far as this complaint has been made by applicants Soini, Miettinen and Mikola it raises such serious issues of fact and law under the Convention that it determination requires an examination of the merits. The Court concludes therefore that the complaint as lodged by these applicants is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

In so far as the remaining thirteen applicants have complained that the pre-trial investigation and the charges brought against some of the applicants violated the freedom of expression of all thirteen, the Court finds this grievance unsubstantiated. There is no indication that the investigation and the charges in question interfered with these applicants' freedom of expression so as to disclose an appearance of a violation of Article 10. Nor does any separate issue arise under Article 17.

It follows that this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

4. All of the applicants have complained that during the pre-trial investigation and while they were under 18 years of age, they were repeatedly pressured to answer impertinent questions relating to their private lives. They invoke Articles 3 and 8 of the Convention.

Article 3 reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 8 reads, as far as relevant, as follows:

> "1. Everyone has the right to respect for his private ... life, ...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Court finds no appearance of treatment meeting the definition – as developed in the Court's case-law – of treatment proscribed by Article 3 (see, for example, the Raninen v. Finland judgment of 16 December 1997, *Reports of Judgments and Decisions* 1997-VIII, pp. 2821 et seq., §§ 55 et seq.).

Neither does the Court find that the questions put to the applicants during the pre-trial investigation were such as to lack justification within the meaning of Article 8 § 2.

It follows that this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

5. The applicants have further complained under Article 11 of the Convention that the pre-trial investigation directed towards the anti-fur activists' association violated the applicants' right to freedom of peaceful assembly and to freedom of association with others. Because of their anti-fur opinions and actions the investigation was conducted against them in a discriminatory manner, contrary to Article 14.

Article 11 reads, in so far as relevant, as follows:

> "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, ...
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."

Article 14 reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

On the facts of the present case, the Court finds no appearance of a violation either of Article 11 or of Article 14 read in conjunction with Article 11.

It follows that this part of the application must also be rejected as being manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

6. Applicants Sami and Sanna Seppilä, Karjalainen, Särkisilta, Kaihovaara, Pelkonen, Riska, Karlstedt, Salonen, Miettinen and Mikola have also complained that, although they were questioned as suspects of public defamation, no charges have been brought against them for that offence, nor have they been notified that the investigation has been closed or that charges will not be brought. They are therefore still considered suspects and have no effective remedy against the present situation. The applicants invoke Article 13 of the Convention which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

The Government note that out of the eleven applicants in question Ms Karjalainen was charged with public defamation but eventually acquitted of that offence. It is true that the other ten applicants who had originally been suspected of public defamation were never charged with that particular offence. The pre-trial investigation in respect of the offence of public

defamation was terminated on 20 November 1996. The front page of the pre-trial record only named as suspects those persons whom the prosecutor had decided to charge. That naming of the "final" suspects may be considered a notification within the meaning of section 43 of the Pre-Trial Investigation Act to those applicants who were not being charged with that offence. They would have been informed in explicit terms of the decision not to prosecute them for that offence, had they made an enquiry to that effect.

The investigation also covered various other offences of which the ten remaining applicants were being suspected. The charges in that respect were examined at the same hearing as the charges for public defamation. The applicants charged with public defamation were assisted by their current counsel, who must have been aware of the fact that the police had finally named as suspects only those persons against whom the prosecutor was prepared to bring charges.

In the Government's view the applicants had at their disposal an aggregate of remedies satisfying the requirements of Article 13, namely an administrative or criminal complaint or a petition to the Ombudsman or the Chancellor of Justice.

The applicants rebut the Government's argument that the indications on the cover page of the pre-trial record finally determined who among them were no longer being considered suspects. The decision to press charges is a matter for the prosecutor, who may still prosecute someone other than those whom the police has recorded as suspects. Someone who has been heard as a suspect in the investigation and who remains a suspect is not, as a witness, as credible as someone who has received a decision not to press charges. The applicants would not exclude that by deliberately refraining from issuing decisions not to press charges against eleven of the applicants the prosecution sought to avoid their being examined as witnesses.

The deficiency in the Pre-Trial Investigation Act – that it does not contain an explicit provision under which the investigation could be terminated in respect of someone no longer considered a suspect, while continuing in respect of those still considered suspects – had been spotted by the Deputy Ombudsman's already in 1995. The indications on the cover page of the pre-trial record cannot therefore be considered a "final decision" with the effect of discontinuing the suspicions against those eleven applicants who were not charged. In addition, the decisions to charge some of the applicants with public defamation while taking no action in respect of the remaining eleven were made after – and therefore in disregard of – the Deputy Ombudsman's decision of 1995.

The general petitioning possibilities referred to by the Government cannot be considered effective remedies for the purposes of Article 13. By way of example, the Ombudsman will not intervene in pending proceedings.

The Court finds that this complaint may raise an issue under the previously cited Article 6 § 1 of the Convention, in so far as it guarantees the right to a hearing within a reasonable time by an independent and impartial tribunal established by law for the determination of any criminal charge (cf., for example, the Eckle v. Germany judgment of 15 July 1982, Series A no. 51, p. 33, § 73).

In addition, a question may arise with regard to the question whether the applicants in question had at their disposal any remedy within the meaning of Article 13 of the Convention, whereby they could have sought to obtain formal notification that they were no longer under suspicion of having committed public defamation.

The Court notes, however, that counsel for the applicants have not disputed the Government's statement that Ms Karjalainen was tried for public defamation but acquitted in 1997. In these circumstances the Court finds that she can no longer claim to be a victim, within the meaning of Article 34, of a violation of Article 6 or 13 on the grounds alleged.

It follows that in so far as this complaint has been made by Ms Karjalainen it must be rejected as being manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

The Court considers, in the light of the parties' submissions, that in so far as this complaint has been made by the remaining ten applicants complaining under Articles 6 and 13, it raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes, accordingly, that in this respect the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

7. Finally, applicants Soini, Miettinen and Mikola have complained that the seizure of the pamphlets was an illegal interference with their right to the peaceful enjoyment of their possessions. They invoke Article 1 of Protocol 1 which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The Court considers that while the seizures of pamphlets from the aforementioned three applicants raise issues under Articles 8 and 10 of the Convention they do not disclose any appearance of a violation of Article 1 of Protocol No. 1.

It follows that this part of the application must also be rejected as being manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

For these reasons, the Court unanimously

Declares admissible, without prejudging the merits,

three applicants' complaint that the coercive measures taken against them violated their right to respect for their private lives;

three applicants' complaint of a violation of their freedom of expression;

ten applicants' complaint that they are still being considered suspects of public defamation and have no effective remedy to challenge that state of affairs;

Declares the remainder of the application inadmissible.

Françoise ELENS-PASSOS
Deputy Registrar

Nicolas BRATZA
President

ANNEX

The applicants are:

1. Mr Joni Purmonen, born in 1974 and resident in Tampere;
2. Ms Laura Soini, born in 1980 and resident in Vantaa;
3. Ms Tyra Therman, born in 1979 and resident in Espoo;
4. Ms Katja Mustonen, born in 1979 and resident in Vantaa;
5. Mr Mikko Uosukainen, born in 1974 and resident in Helsinki;
6. Ms Virpi Karjalainen, born in 1976 and resident in Helsinki;
7. Mr Sami Seppilä, born in 1975 and resident in Helsinki;
8. Ms Anna Särkisilta, born in 1979 and resident in Helsinki;
9. Ms Riikka Kaihovaara, born in 1980 and resident in Helsinki;
10. Ms Jenni Pelkonen, born in 1979 and resident in Helsinki;
11. Ms Sanna Seppilä, born in 1978 and resident in Helsinki;
12. Ms Johanna Riska, born in 1978 and resident in Helsinki;
13. Ms Irene Karlstedt, born in 1973 and resident in Helsinki;
14. Ms Elina Salonen, born in 1978 and resident in Helsinki;
15. Mr Tuomo Miettinen, born in 1973 and resident in Helsinki; and
16. Ms Elina Mikola, born in 1978 and resident in Helsinki.