CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 36741/97
by Jouko KALLIOLA and Others
against Finland

The European Court of Human Rights, sitting on 6 September 2001 as a Chamber composed of

Mr G. RESS, *President*,
Mr I. CABRAL BARRETO,
Mr V. BUTKEVYCH,
Mrs N. VAJIĆ,
Mr J. HEDIGAN,
Mr M. PELLONPÄÄ,
Mrs S. BOTOUCHAROVA, *judges*,
and Mr V. BERGER, *Section Registrar*,

Having regard to the above application introduced with the European Commission of Human Rights on 8 June 1997 and registered on 27 June 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 applicants, Messrs Jouko Kalliola , Harri Nääppä, Vesa Repo, Riku Roimu and Timo Mäkinen are Finnish nationals, born in 1967, 1963, 1963, 1964 and 1959 respectively. They are represented before the Court by Mr Heikki Salo, a lawyer practising in Helsinki.

A. The circumstances of the case

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

On 3 March 1993 early in the morning, the National Bureau of Investigation (*keskusrikospoliisi, centralkriminalpolisen)*, reinforced by a special Karhu group of the Helsinki Police and in co-operation with armed forces and the Border Guards, made a search in a clubhouse of the motorcycle club Overkill MC. The search was intended to apprehend certain persons suspected of aggravated assault. Five members were caught during the search. The president of the club was apprehended later. The police also seized several weapons at the clubhouse. It proved later that they all were permissible and legal, except one which was useless and not a gun at all.

Officer P. from the National Bureau of Investigation was in charge of the investigation. After the search P. gave interviews. His statements were widely spread in the media by the press and a TV channel. P. had also been assigned to be responsible for making any announcements to the media.

In the evening of 3 March 1993 a Finnish TV channel had a report about the search, in which P. was interviewed. To a reporter's question as to what type of offences members of the club had been found guilty of, P. stated that the police had earlier registered to their records the members in question and that they had been convicted of aggravated drug offences and assaults.

Between 4 and 9 March 1993 several newspaper articles were published, where a similar statement was quoted.

The applicants have made several complaints to various authorities. On 10 March 1993 they complained to the Parliamentary Ombudsman (*eduskunnan oikeusasiamies, riksdagens justitieombudsman)*. In its statement of 31 May 1993 to the Deputy Parliamentary Ombudsman the Ministry of the Interior (*sisäasiainministeriö, inrikesministeriet)* observed, *inter alia,* the following:

> "The search carried out by the police on the premises of the motorcycle club received a lot of public attention. Soon after the search the National Bureau of Investigation informed the mass media of the criminal background of the members, and of the activities of the club.

> An article published in Helsingin Sanomat on 5 March 1993 (under the heading 'Two motorcycle club members arrested') directly quoted an interview with P. According to the newspaper, P. had said that 'the members of the club had been convicted of narcotics offences and assaults, including robberies'.
>
> According to [the applicants], the information given by the police was incorrect. [The applicants] attached extracts from their criminal records, of which only one contained an indication of an offence, to their complaint to the Deputy Parliamentary Ombudsman.
>
> According to P., the police did not tell the mass media that the applicants had been convicted of narcotics offences, but it was mentioned that another motorcycle club, Hell's Angels, had been involved in selling narcotics. The information was given from an international point of view, with reference to public information given by the Interpol.
>
> [T]he police shall be prudent in giving information to the public on the background of persons suspected of an offence. Any labelling of suspects shall be avoided. In the Ministry's opinion, the information given by the National Bureau of Investigation indeed gave the public an image that the said members of the motorcycle club had committed various offences. In this respect the public information was not appropriate, as far as the criminal background was concerned."

On 2 July 1993 the applicants made a request of pre-trial investigation to the Deputy Parliamentary Ombudsman and on 31 August 1993 to the Police Department of the Ministry of the Interior. On 18 November 1993 the applicants complained to the Parliamentary Ombudsman, arguing that the police neglected their duty as they did not respond as required in Sections 2 and 6 of the Criminal Investigations Act (*esitutkintalaki, förundersökningslag)*

The applicants made a complaint also to the Council for Mass Media (*julkisen sanan neuvosto, opinionsnämnden för massmedier)* which, on 10 November 1993, found that the TV channel and one of the newspapers had failed to comply with good journalistic practice when reporting on the events concerning the motorcycle club.

On 14 January 1994 the Deputy Parliamentary Ombudsman stated that, on the basis of the documents, she did not find anything that would require her measures. She noted, however, the following in respect of the treatment of the suspects during the pre-trial investigation:

> "It was mentioned by the mass media that the relevant members of Overkill MC had been convicted of narcotics offences and assaults. According to [the applicants], the police had given incorrect information on those members of the motorcycle club.
>
> There is no evidence that the police had deliberately given incorrect information on the members of the motorcycle club. However, it is worth observing that the telephone interview with P. on 4 March 1993 easily gave the impression that members of Overkill MC had been convicted of narcotics offences and assaults."

The Deputy Parliamentary Ombudsman concluded in this respect that authorities and public officials must be especially careful when informing

the public for example of matters relating to criminal investigations and suspects. P. had been careless when giving information on the search of the premises of Overkill MC and on related matters." P. was informed of her opinion.

On 23 March 1994 the applicants instituted criminal proceedings against P. who was charged with libel and violation of his official duty on account of his statements. The applicants requested that P. and the Finnish Government be ordered to pay compensation in the amount of FIM 100,000 with interest to each applicant. They argued that they had been subjected to public interest since the search. The applicants had been labelled as having committed offences they had never committed. According to the applicants, P. had been the most active one to give statements to the media and had specially named Mr Mäkinen to the journalists.

P. denied all the charges as well as the applicants' claim for compensation. He stated that he had not been active but only answered questions presented by reporters. Before the search he had prepared a press release in which the name of the club or names of its members were not mentioned. According to P., he or the police had not had any advance information about the members of the club. The police had monitored the clubhouse and assumed, on the basis of the number of people visiting the house, that the number of the members was greater than that established later.

On 5 October 1994 after four hearings at which several witnesses were heard, the District Court (*käräjäoikeus, tingsrätten*) of Helsinki rejected all the applicants' claims and acquitted P., basing itself on P.'s statements and on statements given by several witnesses heard during the hearings. The District Court found as follows:

> "The District Court finds that P., by acting in the way described above, has not deliberately or of carelessness or lack of caution made himself guilty of a violation of official duties, when informing the public of the pre-trial investigation, so that his statements would have subjected [the applicants] to suspicion or that he would have unnecessarily caused them damage and harm."

It appears from the judgment that P. had mentioned the name of applicant Mäkinen when asked by a journalist about persons whose detention on remand would be requested.

The applicants appealed to the Court of Appeal (*hovioikeus, hovrätten)* of Helsinki and requested an oral hearing. On 27 June 1996 the Court of Appeal refused the applicants' appeal, without a hearing, and upheld the District Court's judgement, finding as follows:

> "[The applicants] have considered that P. clearly identified Overkill MC in his statements concerning the present case, and thus his allegations included in the statements directly referred to this club. According to [the applicants], Overkill MC, which was a non-registered association, had 13 members at the relevant time. However, the police had reason to believe that the club consisted of a considerably larger number of persons, *inter alia*, because there had been large numbers of people

on the club premises and in events organised by the club. The statements given by P. reveal that he meant a considerably wider circle of people than [the applicants] or other members of Overkill MC named as such by the club. Nor did P. name any persons in his statements. The identification of club members has only been possible on the basis of distinctive marks. Those distinctive marks were not widely known among the public at the relevant time.

The Court of Appeal considers that P. did not deliberately allege that [the applicants], in particular, had committed the offence in question or other despicable acts. Nor did the articles clearly indicate which parts of the text were directly based on the statements of P. and which parts were based on the reporter's own interpretations of those statements or on information received from other sources.

On these grounds and for the reasons given by the District Court, the Court of Appeal finds that there is no reason to alter the judgment of the District Court as to the merits."

The Supreme Court (*korkein oikeus, högsta domstolen)* refused the applicants leave to appeal on 9 December 1996.

B. Relevant domestic law

According to Section 7 (2) of the Criminal Investigations Act (449/1987), the suspect must be presumed not guilty in a criminal investigation.

According to Section 8 (1) of the Criminal Investigations Act, in a criminal investigation, the rights of no one must be infringed more than what is necessary for the achievement of the purpose of the criminal investigation. Furthermore, according to Section 8 (2), a criminal investigation must be carried out so that no one is placed under suspicion without due cause and no one is unnecessarily subjected to harm or inconvenience.

According to Section 49 of the Criminal Investigations Act, any public information on a criminal investigation must be given in a manner which does not subject anyone to undue suspicion or cause unnecessary harm or inconvenience to anyone.

Under Section 9 of the Decree on Criminal Investigations and Coercive Measures (*asetus esitutkinnasta ja pakkokeinoista, förordning om förundersökning och tvångsmedel*; 575/1998), the person in charge of the investigations and his superior, or another official ordered by the superior, must have the right to make information concerning the investigation public.

Section 21 of the Constitution of Finland (731/1999), under the heading Protection under the law, provides the following:

"Everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a

decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.

Provisions concerning the publicity of proceedings, the right to be heard, the right to receive a reasoned decision and the right of appeal, as well as the other guarantees of a fair trial and good governance shall be laid down by an Act."

According to Chapter 17 (571/1948), Section 1 (2) of the Code of Judicial Procedure (*oikeudenkäymiskaari, rättegångsbalken*), the plaintiff in a criminal law case must prove the facts that support his/her claim. The defendant must be presumed innocent until proved guilty. Although it may be in the interests of the defendant to submit counter-evidence in support of his or her innocence, he/ she has no obligation to do so. The prosecutor bears the burden of proof. In case there is reasonable doubt as to the guilt, the case must be decided in favour of the defendant. An important way of obtaining evidence in a criminal law case, apart from hearing outsiders as witnesses, is to freely examine the defendant and the plaintiff for the purpose of establishing the facts of the case.

According to Chapter 17, Section 2 of the Code of Judicial Procedure, after having carefully evaluated all the facts that have been presented, the court must decide what is to be regarded as the truth in the case.

According to Chapter 11, Section 4 of the Criminal Proceedings Act (*laki oikeudenkäynnistä rikosasioissa*, *lag om rättegång i brottmål*; 689/1997) a judgment must be reasoned. The statement of reasons must indicate on what facts and legal arguments the judgment is based. It must further be indicated on what grounds a fact has been proved or has failed to be proved.

COMPLAINTS

1. The applicants complain, under Article 6 § 2 of the Convention, that they were not presumed innocent by the police authorities since the police officer gave false statements to the media about their purportedly criminal background. The public was given the impression that the applicants had been convicted of drug offences, assaults, robberies and other offences.

2. They also complain, under Article 6 § 1 of the Convention, that they did not receive a fair trial. According to the applicants, the District Court and the Court of Appeal were not impartial. They did not accept the obvious evidence submitted by the applicants as being sufficient for the conviction of officer P. The District Court of Helsinki and the Helsinki Court of Appeal did not give adequate reasons for their decisions.

3. The applicants also allege that the police officer interfered with their right to respect for their private life and home in a way that was not necessary in a democratic society. It was neither necessary to bring up the criminal past of some of the club members nor to make false statements

about the alleged criminal past of some others, or to describe the neighbourhood of the clubhouse in public. The applicants invoke Article 8 of the Convention in this respect.

4. The applicants further complain that there was no effective remedy available, as there was no possibility to have P. made responsible for his statements. The applicants invoke Article 13 of the Convention in this respect.

5. In addition they complain, under Article 14 of the Convention, that they were discriminated against on the basis of their membership in the motor cycle club.

THE LAW

1. The applicants complain that the they were not presumed innocent by the police, since the police officer P. in charge gave statements which gave a false impression of the applicants' background claiming that they had been convicted of drug offences, assaults, robberies and other offences. In this respect the applicants invoke Article 6 § 2 of the Convention, which provides:

> "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

The Government contest the applicants' allegations and refer to the reasoning of the Deputy Parliamentary Ombudsman's decision as well as that of the District Court's decision and the Court of Appeal's judgment.

In addition, the Government note that P. only disseminated to the media the first information note, and after that it was the latter that approached the former, and not *vice versa*.

The Government further emphasise that it is not under Article 1 of the Convention responsible for the actions of the media, which are not covered by the notion of a public authority and which have freedom of expression.

They conclude that the way in which P. acted did not amount to a violation of the applicants' right to the presumption of innocence under Article 6 § 2 of the Convention.

The applicants contest the Government's views. They point out that in the domestic doctrine it has been traditionally held clear that defamation may occur also indirectly through the use of collective naming. The club had thirteen members of whom five were inside the clubhouse, when the search took place. Since P. had this information already at the very beginning, he must have understood that the labelling of the group as criminal, labels also the members as individuals. The decision of the Council for the Mass media of 10 November 1993 supports this conclusion.

The applicants consider that the findings of the Ministry of the Interior and the Deputy Parliamentary Ombudsman confirm that officer P.'s statements gave the impression that members of Overkill MC had committed various offences.

Regardless of the exact nature of the responsibility of P., the authorities should have corrected the wrong information, since it resulted from an interview and information given by P. in his official capacity. There is a positive obligation to correct wrong information which the media has received from the authorities.

The applicants point out that the failure to proceed to a correction as such amounts to a violation of Article 6 § 2 of the Convention. When the authorities inform the public about criminal investigations, it is required that they do so with all the discretion and circumspection necessary for the respect of the presumption of innocence.

The applicants further are of an opinion that the information given by P. clearly pointed out the applicants to the public as violent narcotic offenders, although they did not have criminal record. In addition, Mr Mäkinen was specially named by P. to journalist S.

The Court recalls that the presumption of innocence is one of the elements of a fair criminal trial required by Article 6 § 1 of the Convention. It will be violated if a judicial decision concerning a person charged with a criminal offence reflects an opinion that he is guilty before he has been proved so according to law.

However, the presumption of innocence may be infringed not only by a judge or a court but also by other public authorities. In the present case the impugned statement was made by a senior police officer in connection with a search conducted on the basis of suspected criminal offences. As the statement had a direct link with these crime suspicions, the Court will proceed on the basis that Article 6 § 2 applies to this case.

The Court recalls that, while Article 6 § 2 of the Convention does not prevent the authorities from informing the public about criminal investigations and related matters, it requires that they do so with all the discretion and circumspection necessary if the presumption of innocence is to be respected.

The Court further recalls the Court of Appeal's judgment according to which P., although he referred to Overkill MC, did not name any particular person in his statements. While this is disputed by the applicants, who allege that one of the applicants was in fact singled out, the Court, which normally should accept the facts as they are established by national courts (Klaas v. Germany judgment of 22 September 1993, Series A no. 269, § 30), sees no particular reason generally to question this conclusion or other factual conclusions reached by the Court of Appeal. While applicant Mäkinen's name appear to have been mentioned in a response concerning persons to be detained on remand, it has not been established that P. would

have labelled that applicant or any other applicant as being guilty of a particular offence in a manner which would have stigmatised them personally in the public opinion or prejudiced any judicial proceedings concerning the suspected offences (cf., *a contrario,* Allenet de Ribemont v. France judgment of 10 February 1995, Series A no. 308, § 41).

While the formulations chosen by officer P. may not have been most appropriate, there is, in these circumstances, no appearance of a violation of Article 6 § 2.

Therefore this complaint is manifestly ill-founded within the meaning of Article 35 § 4 of the Convention.

2. The applicants complain that they did not receive a fair trial in criminal proceedings in which they accused police officer P. of libel and violation of his official duties. The applicants allege that P. made false statements through mass media, labelling the applicants as perpetrators of various offences. In the proceedings the courts accepted P.'s denial that he did not identify the individual applicants and that there was probable cause in support of his statements as even though the applicants had submitted evidence supporting the accusations. The applicants, further, argue that the District Court and the Court of Appeal did not give adequate reasons for their decisions. They, finally argue that the District Court and the Court of Appeal were not impartial. The applicants invoke Article 6 § 1 of the Convention, which provides:

> "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

The Government emphasise that as regards the assessment of evidence, in Finland the courts shall freely assess all the material constituting evidence in the case.

P. and the reporters who had interviewed him were heard in the case. In addition an audio-visual tape as well as several newspaper articles were adduced as evidence.

The Government note that having made an overall assessment of the evidence the District Court dismissed all the charges. The District Court applied the principle of burden of proof, finding that the evidence adduced by the applicants was not sufficient for P.'s conviction.

As to the allegedly deficient reasoning, the Government emphasise that the District Court's judgment includes some twenty pages of reasoning. The court takes a detailed position on each indictment and gives account of the

reasons on the basis of which the court has reached a certain conclusion and of the evidence supporting the conclusion.

On appeal the Court of Appeal, on its part, endorsed the legal reasoning of the impugned decision of the District Court, and clarified them with some supplementary arguments. It dismissed the appeal and upheld the judgment delivered at first instance.

The Government emphasise that the applicants had the benefit of adversarial proceedings. They were able to submit the arguments they considered relevant at the various stages of the proceedings.

According to the Government the applicants' allegation to the effect that the District Court and the Court of Appeal were not impartial because the defendant was a police officer is *prima facie* totally without foundation. There is nothing in the course of the proceedings to support a finding that the judges of the District Court or the judges of the Court of Appeal were, from the objective or subjective point of view, prejudiced in the case because of P.'s profession or for other reasons. Moreover, the applicants did not bring any evidence to prove this.

In conclusion, the Government consider that, taken as a whole, the proceedings in issue were fair for the purposes of Article 6 § 1 of the Convention, taken together with Article 6 § 2 of the Convention.

The applicants emphasise that the evidence confirming P. as responsible for disseminating incorrect and defamatory information on the applicants was clear and consistent.

P. had also stated that the police found in the clubhouse tens of illegal weapons. The uniform manner in which the media cited the false information indicates clearly that the journalists did not invent it themselves, but that it was given to them by the same source, P., who also admitted that he had given interviews.

The applicants are of the opinion that when they had shown clear and documented evidence on the false information disseminated by P., it does not suffice as a counter evidence that P. just denies his responsibility over the issue. After all, Article 6 of the Convention obliges the courts to balance assessment of all evidence submitted. As this did not happen, the domestic proceedings were not fair and objectively impartial as a whole.

The applicants are of the opinion that after dismissing the criminal charges all the domestic courts failed to give a substantiated evaluation whether P. had acted also according to his specific official duties, and more specifically, whether the guidelines in force on giving information on criminal investigations had been followed. Neither did the courts evaluate the applicants' submission on the responsibility of the authorities to correct their false information. Therefore there was also a violation of Article 6 § 1 of the Convention with regard to the applicants' civil right to get compensation because of the libellous information given on them by the authorities.

The Court recalls that it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see the Schenk v. Switzerland judgment of 12 July 1988, Series A no. 140, §§ 45-46).

The Court notes that under specific circumstances a lack of reasoning may raise an issue as to the fairness of the procedure. According to the Court's established case-law reflecting a principle linked to the proper administration of justice, judgments of courts and tribunals should adequately state the reasons on which they are based. The extent to which this duty to give reasons applies may vary according to the nature of the decision and must be determined in the light of the circumstances of the case (see the García Ruiz v. Spain judgment of 21 January 1999 [GC], *Reports of Judgments and Decisions* 1999-I, § 26; the Ruiz Torija v. Spain and Hiro Balani v. Spain judgments of 9 December 1994, Series A nos. 303-A and 303-B, § 29 and § 27; and the Higgins and Others v. France judgment of 19 February 1998, 1998-I, § 42). Although Article 6 § 1 obliges courts to give reasons for their decisions, it cannot be understood as requiring a detailed answer to every argument (see the Van de Hurk v. the Netherlands judgment of 19 April 1994, Series A no. 288, § 61). Moreover, in dismissing an appeal, an appellate court may, in principle, simply endorse the reasons for the lower court's decision (see, *mutatis mutandis*, the Helle v. Finland judgment of 19 December 1997, *Reports of Judgments and Decisions* 1997-VIII, §§ 59-60).

In the present case there is no indication that the reasons given by the District Court or the Court of Appeal were not in conformity with the above principles.

The Court recalls that in order to establish whether a body can be considered "independent," regard must be had, *inter alia*, to the manner of appointment of its members and their term of office, to the existence of guarantees against outside pressure and to the question whether the body presents an appearance of independence. As to the question of impartiality, a distinction must be drawn between a subjective test, whereby it is sought to establish the personal conviction of a given adjudicator in a given case, and an objective test, aimed at ascertaining whether the adjudicator offered guarantees sufficient to exclude any legitimate doubt in this respect (the Langborger v. Sweden judgment of 22 June 1989, Series A, no. 155, § 32).

In the present case there is no appearance of any unfairness, nor of any partiality on the part of the courts, in the proceedings in which the applicants' civil right to compensation and good reputation were at issue. It

follows that this complaint is manifestly ill-founded within the meaning of Article 35 § 4 of the Convention.

3. The applicants complain that P. unnecessarily identified in public the Motorcycle Club and its members. Thus, P. interfered with their private lives in a way that was not in accordance with the law and was not necessary in a democratic society. The applicants invoke Article 8 of the Convention, which provides:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 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 Government consider that as the applicants' complaint under Article 6 § 2, based on the same facts as their complaint under Article 8, is manifestly ill-founded, no question can arise in relation to the last-mentioned Article.

The Government are of an opinion that at the same time, there cannot be any interference with the applicants' right to respect for their private lives. The Government recalls *inter alia* that individual applicants were not named in P.'s statements, but as noted by the Court of Appeal in its decision, the statements given by P. reveal that he meant a considerably wider circle of people than the applicants or other members of Overkill MC named as such by the club. Moreover, as again observed by the Court of Appeal, the identification of club members has only been possible on the basis of distinctive marks, and those marks were not widely known among the public at the relevant time.

The Government submit that the interference, if any, was in accordance with law as required by Article 8 § 2 of the Convention. In this respect reference is made to the various provisions of the Criminal Investigations Act and the Decree on Criminal Investigations and Coercive Measures.

The Government observe that the impugned statements were made following a search in the clubhouse of the motorcycle club Overkill MC in connection with criminal investigations. The interference thus had at least the legitimate aim of prevention of crime in conformity with Article 8 § 2.

The possible interference with the applicants' rights under Article 8 of the Convention was in the Government's view, in any case of a minor nature, taking into account of the specific circumstances of the case, including the fact that the applicants' names were not mentioned in the statements.

The applicants are of the opinion that the Government have not substantiated any justification on the necessity of a violation of the applicants' private life with the information activity of the police authorities. They were labelled as criminals because of their hobby and activities in the motorcycle club.

The applicants underline that beyond its details and technicalities the present case raises important questions concerning the presumption of innocence and fair trial, i.e. principles which should be always respected.

The Court notes that the present complaint is essentially based on the same facts as that raised under Article 6 § 2. Even assuming that a separate issue raises under Article 8, the Court recalls that, according to the Court of Appeal's judgment, the applicants were not identified in P.'s statements. In addition, the applicants had available remedies for the protection of their reputation, notably the possibility to complain to the Parliamentary Ombudsman and to initiate criminal proceedings (see point 4 below). Referring also to its reasoning given above (see points 1-2), the Court concludes that in these circumstances there is no appearance of a lack of respect for the applicants' private life in violation of Article 8 of the Convention.

Thus this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 35 § 4 of the Convention.

4. The applicants complain that they did not have an effective remedy contrary to Article 13 of the Convention, which provides:

> "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 Court notes that the applicants have challenged the courts' decisions before the Supreme Court, which had full jurisdiction to examine the lawfulness of the decisions provided it granted leave to appeal. The effectiveness of a remedy for the purposes of Article 13 does not depend on the certainty of a favourable outcome (see Vereinigung Demokratischer Soldaten Österreich and Gubi v. Austria judgement of 19 December 1994, Series A no. 302, §55). In these circumstances there is no appearance of a violation of Article 13 of the Convention.

It follows that this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 35 § 4 of the Convention.

5. The applicants complain that they were discriminated against because of their lifestyle, membership of a motorcycle club and hobby. They invoke Article 14 of the Convention, which provides:

> "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."

The Government refute the applicants' complaints relating to the alleged discrimination against them under Article 14 of the Convention as clearly unfounded and thus as manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

The applicants consider that they were labelled as criminals on a basis of their lifestyle, hobby and activities in the motorcycle club. Thus, they were treated differently.

The Court recalls that as far as the applicants complain that they were discriminated against the complaint is unsubstantiated, and thus it follows that this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Vincent BERGER
Registrar

Georg RESS
President