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

FOURTH SECTION

DECISION

Application no. 16245/10
Jarkko Mikael PEURANIEMI
against Finland

The European Court of Human Rights (Fourth Section), sitting on 1 October 2013 as a Chamber composed of:

Ineta Ziemele, *President,*
Päivi Hirvelä,
George Nicolaou,
Ledi Bianku,
Zdravka Kalaydjieva,
Krzysztof Wojtyczek,
Faris Vehabović, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 18 March 2010,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Jarkko Mikael Peuraniemi, is a Finnish national, who was born in 1980 and lives in Jämsä. He was represented before the Court by Mr Jyri Nuojua, a lawyer practising in Tampere.

2. The Finnish Government ("the Government") were represented by their Agent, Mr Arto Kosonen of the Ministry for Foreign Affairs.

A. The circumstances of the case

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

4. On 25 January 2010 the applicant was sleeping at his friend's home when a police patrol entered the apartment. It was responding to an emergency call that had been made about 10 minutes earlier by an eyewitness who had seen two or three persons, apparently intoxicated, drive a car without a number plate to that address and enter the apartment.

5. The owner of the apartment opened the door to the police patrol. The applicant claims that he was violently pulled from the bed by the police and alleges that they pushed him around. As the police suspected that the applicant had earlier been driving under the influence of alcohol, they made a security search (*turvallisuustarkastus, säkerhetsvisitation*) under section 22 of the Police Act. They examined his clothes and pockets and found the car keys in his pocket. However, after a telephone call to the applicant's father, the police were convinced that the applicant's father, and not the applicant, had been driving the car. The applicant claimed that the search had caused him harm.

6. On 18 February 2010 the police decided to terminate the pre-trial investigation into the matter as they had suspected the wrong person, and the applicant had not committed any crime.

7. According to the information submitted by the Government, the applicant subsequently filed a police report in June 2012 asking the police to investigate the matter. This investigation is apparently still on-going.

B. Relevant domestic law

8. Section 2 of the Criminal Investigations Act (*esitutkintalaki, förundersökningslagen;* Act no. 449/1987) provides that the police or another investigation authority must carry out a criminal investigation where, on the basis of a report made to it or otherwise, there is reason to suspect that an offence has been committed.

9. According to Section 5, subsection 1, of the Act:

> "A criminal investigation involves the clearing up of the following matters:
>
> (1) the offence, the circumstances of its commission, the parties involved and the other matters necessary for a decision on the bringing of charges;
>
> (2) the loss incurred by the offence and the benefit gained from it, so as to secure an eventual seizure;
>
> (3) the private-law claim of the injured party, if he has requested that the prosecutor pursue the claim in accordance with Chapter 3, section 9, of the Criminal Procedure Act."

10. According to section 7, subsection 1, of the Act, all facts and evidence, both for and against the suspect, shall be gathered and taken into account in a criminal investigation.

11. According to section 14, subsection 2, of the Act, a public prosecutor shall always be in charge of the pre-trial investigation of an offence of which a

police officer is suspected, with the exception of infractions for which a summary penal fee may be ordered or a sanction may be ordered through penal order proceedings.

COMPLAINTS

12. The applicant complained under Articles 5 and 8 of the Convention that he had been suspected of a crime without reason and that his liberty, personal integrity and privacy had been violated by the acts of the police. He also complained under Article 13 of the Convention that he had not had an effective remedy as this kind of issue could not be examined before a court.

THE LAW

A. Complaints under Articles 8 and 13 of the Convention

13. The applicant complained under Article 8 of the Convention that his personal integrity and privacy had been violated by the police. The applicant also complained under Article 13 of the Convention that he had not had an effective remedy in respect of his Article 8 complaints.

14. Article 8 of the Convention reads as follows:

> "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."

15. Article 13 of the Convention 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."

16. The Government argued that the applicant had failed to exhaust the domestic remedies available to him as he had filed a police report and the case was still pending before the domestic authorities. His application was thus premature and should be declared inadmissible for the non-exhaustion of domestic remedies.

17. Were the Court of another opinion, the Government maintained that the security search performed on the applicant did not constitute an

interference within the meaning of Article 8 of the Convention. In any event, it had a basis in national law, namely in section 22 of the Police Act, and was thus in "accordance with law". The impugned measures were clearly based on legitimate aims, in particular the prevention of disorder or crime and the protection of the rights and freedoms of others. As to the necessity, the Government noted that the applicant had been suspected of a crime for which the maximum sentence was six months' imprisonment. The security check had been performed on the applicant in order to ensure that he was not carrying any objects or substances that could be used to jeopardise his custody arrangements or to cause danger to him or others. The interference had lasted a very short time and it had been immediately interrupted when the applicant was no longer under suspicion. The interference had thus been necessary in a democratic society in the interest of public safety and for the protection of the rights of others.

18. As to Article 13, the Government maintained that there was no need to examine whether there was a violation of Article 13 of the Convention as the complaints under Article 8 were manifestly ill-founded. In any event, the applicant could resort to the effective remedies available. The applicant, who had been assisted by legal counsel, had been aware of the national legal system and the legal remedies provided by it. The applicant could have complained to the superiors of the police officers who had conducted the security search. A compensation claim could also have been brought against the police officers in question. Moreover, the Parliamentary Ombudsman and the Chancellor of Justice also controlled the legality of the measures taken by the authorities.

19. The Government also noted that the applicant could have instituted criminal proceedings against the police officers or asked a public prosecutor to bring charges. Apparently he did this in June 2012. As the matter concerned a suspected offence committed by a police officer, it was examined by another police department and the investigation was led by a prosecutor. The applicant's complaint under Article 13 of the Convention was thus manifestly ill-founded.

20. The applicant did not submit any observations in respect of Article 8 of the Convention. In respect of Article13, the applicant admitted that it was possible to institute criminal proceedings against the police officers in question and that in fact he had filed such a police report asking the police to investigate the matter. This investigation was still on-going.

21. The Court notes that both parties agree that the case is still pending before the national authorities. Both parties also accept that the remedy resorted to could be considered effective for the purposes of the Convention. The Court therefore concludes that the applicant's complaints before the Court are premature.

22. Accordingly, this part of the application must be rejected for non-exhaustion of domestic remedies and be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

B. Remainder of the application

23. The applicant also complained under Article 5 of the Convention that he had been suspected of a crime without reason and deprived of his liberty.

24. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. Accordingly, this part of the application must be rejected as manifestly ill-founded and declared inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Fatoş Aracı Deputy Registrar	Ineta Ziemele President