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. 41258/98
by Pasi TÖRMÄLÄ and Others
against Finland

The European Court of Human Rights (Fourth Section), sitting on 16 March 2004 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁZNICKÁ,
Mr J. CASADEVALL,
Mr S. PAVLOVSCHI,
Mr J. BORREGO BORREGO,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged with the European Commission of Human Rights on 16 March 1998,

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 first applicant, Mr Pasi Törmälä, is a Finnish citizen born in 1949 and residing in Hanko. The second applicant, Mr Ilkka Pitkänen, a Finnish citizen born in 1942, is a lawyer by profession and resides and practises in Espoo. The third applicant, Oilco Oy Ltd, is a limited liability company owned by the first applicant. The fourth applicant, Kiinteistö Oy Hangon Korkeavuorenkatu 10 ("KHK"), is a real estate corporation. The first applicant is the president of its board of directors.

Before the Court the applicants are represented by the second applicant, Mr Pitkänen. The respondent Government are represented by their Agent, Mr A. 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.

Oilco Oy Ltd owned 50% of the shares in the real estate company KHK. Oilco Oy Ltd and its owner, Mr Törmälä, were not in debt to the bank, Postipankki Oy. However, the owner of the remaining 50% of the shares and his other company owed the above-mentioned bank money for which the shares were security. In an auction on 31 July 1992 Oilco Oy Ltd bought the other 50% of the shares for FIM 500,000 (EUR 84,093). In addition, Mr Törmälä, as a representative for Oilco Oy Ltd, took over the responsibility for the above loan amounting to FIM 900,000 (EUR 151,369).

1. Civil proceedings

(a) The bank's claim

In the autumn of 1993 the above-mentioned bank instituted proceedings against Oilco Oy Ltd before the Helsinki District Registry (*maistraatti, magistraten*), demanding payment of the above-mentioned loan. Oilco Oy Ltd contested the action on the ground that the bank had misled Mr Törmälä into taking over responsibility for the loan in circumstances where Oilco Oy Ltd had no reason to do so. Oilco Oy Ltd informed the District Registry that it had commenced a counterclaim before the Helsinki District Court with a view to having the debt nullified. On 1 December 1993 the bank's claim was transferred to the Helsinki District Court (*käräjäoikeus, tingsrätten)* due to the re-organisation of the district courts.

On 26 January 1994 the District Court found that Oilco Oy Ltd was responsible for the payment of the debt, as it had not presented any relevant

grounds to contest its liability. The decision was not appealed against. The applicants claim that it was not communicated to them.

In August 1996 Oilco Oy Ltd lodged an extraordinary appeal with the Supreme Court, arguing, *inter alia*, that the loan document on which the decision of 26 January 1994 was based was the result of a crime concerning which criminal proceedings were pending, that the bank's claim and the counterclaim mentioned below should have been dealt with jointly and that the District Court's decision had never been served upon Oilco Oy Ltd.

In October 1996 Oilco Oy Ltd and Mr Törmälä, the latter as a third-party intervener, filed a supplementary submission, in which they informed the Supreme Court, that, *inter alia*, Oilco Oy Ltd had been wound-up by the Helsinki District Court. In June 1997 Oilco Oy Ltd and Mr Törmälä filed another supplementary submission, in which they informed the Supreme Court that the appeal concerning the winding-up had been rejected by the Court of Appeal and that the Helsinki District Court had found that a crime had been committed as to the events on 31 July 1992 when Oilco Oy Ltd took over the responsibility for the loan.

On 29 October 1999, the Supreme Court (*korkein oikeus, högsta domstolen)* partly rejected the extraordinary appeal and partly dismissed it without considering the merits due to the fact that it had been lodged outside the one year time-limit prescribed by chapter 31, sections 7 and 10 (1) in the Code of Judicial Procedure (*oikeudenkäymiskaari, rättegångsbalken*). The District Court's decision of 26 January 1994 gained legal force on 26 February 1994, *i.e.* more than one year before the lodging of the extraordinary appeal.

(b) The counterclaim

Meanwhile, in November 1993 Oilco Oy Ltd, referring to the above still ongoing proceedings, had instituted counterclaim proceedings against the bank before the same District Court, requesting, *inter alia*, that the loan agreement of 31 July 1992 be nullified. It appears that Oilco Oy Ltd in May 1994 filed additional submissions before the summons was served upon the bank. In its submission of 1 September 1994 the bank contested the claim, as the case had been finally settled by the above-mentioned District Court's decision of 26 January 1994, which had gained legal force.

On 18 August 1995 the District Court decided not to examine Oilco Oy Ltd's claims due to, *inter alia*, the *res judicata* effect of the District Court's decision of 26 January 1994. Oilco Oy Ltd appealed.

By its decision of 29 February 1996 the Court of Appeal upheld the District Court's decision. It appears that the decision was not appealed against.

2. Winding-up proceedings

As Oilco Oy Ltd was not able to pay the debt, the bank instituted winding-up proceedings before the Helsinki District Court in March 1996. Oilco Oy Ltd contested the application, arguing, *inter alia*, that the debt in question was based on a crime and that criminal proceedings against the perpetrators were pending. On 30 August 1996 Oilco Oy Ltd was wound-up by the District Court.

Oilco Oy Ltd appealed, but on 5 February 1997 the Helsinki Court of Appeal (*hovioikeus, hovrätten*) upheld the lower court's decision.

Oilco requested leave to appeal and in June 1997 it informed the Supreme Court of the District Court's decision of 3 June 1997 in the criminal proceedings mentioned below. On 16 September 1997 the Supreme Court refused leave to appeal.

3. Criminal proceedings concerning usury

On 16 August 1996 Mr Törmälä, Oilco Oy Ltd and KHK instituted private criminal proceedings before the Helsinki District Court against the above-mentioned bank's financing manager, the advocate acting for the bank and two other persons. These were charged with, *inter alia*, usury. No claim for damages was presented. The complainants were represented by counsel, Mr Pitkänen. The Public Prosecutor did not associate himself with the private prosecution.

The defendants denied the charges and requested that the complainants as well as Mr Pitkänen be ordered to pay their legal expenses. As for Mr Pitkänen, they argued that prior to instituting court proceedings he already had knowledge of the facts underlying the allegations. The complainants and Mr Pitkänen denied liability for the legal costs. The District Court heard witnesses during several hearings.

On 3 June 1997 the District Court convicted the advocate and the bank's financing manager of usury in respect of the loan agreement of 31 July 1992, sentenced them to four months' suspended imprisonment and ordered them to pay the complainants' legal costs. However, it rejected the remainder of the charges. The judgment was not unanimous, as it was based on the opinion of three lay judges, whereas the professional judge in her dissenting opinion dismissed all charges as well as the claim for legal costs directed at Mr Pitkänen, as there had been no special reasons for him to verify the correctness of the information that he had received from his clients and as part of the facts had only become known during the proceedings.

The parties appealed, the defendants still denying the charges and requesting that, *inter alia*, Mr Pitkänen be ordered to pay their legal costs.

On 5 March 1999 the Court of Appeal, without an oral hearing, acquitted the defendants and ordered Mr Pitkänen jointly with the plaintiffs to pay

costs “thrown away”, amounting to FIM 50,000 (EUR 8,409). The Court of Appeal reasoned this part of its decision by finding, *inter alia*, that Mr Pitkänen had failed in his duty to provide necessary documentation and clarification of the facts of the case, in which no pre-trial investigation had been carried out. Mr Pitkänen had thereby unnecessarily prolonged the proceedings and caused extra work to counsel for the defendants.

On 19 July 1999 the Supreme Court refused leave to appeal.

4. Criminal proceedings concerning abuse of office

Mr Törmälä and Mr Pitkänen subsequently instituted criminal proceedings before the Supreme Court in April 1999, accusing the judges who had examined and the legal clerk who had prepared the case before the Court of Appeal of having defamed Mr Pitkänen and of having abused their office. They argued, *inter alia*, that an oral hearing was necessary in the case, that the judgment was not duly reasoned and that Mr Pitkänen had not been afforded an opportunity to file observations before the Court of Appeal ordered him unlawfully to pay the defendants' legal costs and, finally, that the Court of Appeal had overstepped its powers. Mr Pitkänen claimed compensation, FIM 200,000 (EUR 33,637), for damage caused by the alleged defamation. Mr Törmälä and Mr Pitkänen also claimed legal costs. They requested that the Supreme Court hold an oral hearing and hear witnesses.

Subsequently, Mr Törmälä and Mr Pitkänen requested that the Parliamentary Ombudsman (*eduskunnan oikeusasiamies, riksdagens justitieombudsman)* order a pre-trial investigation and bring charges against the judges and the legal clerk. On 16 August 1999 the Parliamentary Ombudsman informed Mr Törmälä and Mr Pitkänen that he had decided not to bring charges as he considered that there were not probable reasons to suspect that the judges and the legal clerk had committed the offences mentioned in the writ.

On 27 August 1999 the Supreme Court invited observations from the judges and the legal clerk. In their submission of 21 September 1999 the defendants contested the claims, arguing that no procedural shortcomings or other faults had occurred. Furthermore, they argued that they had decided the case within their powers. Their observations were communicated to Mr Törmälä and Mr Pitkänen, who requested that the defendants be ordered to particularise their submissions. It appears that no such order was given.

On 8 May 2000 Mr Törmälä and Mr Pitkänen informed the Chancellor of Justice (*oikeuskansleri, justitiekanslern)* of the case pending before the Supreme Court. On 19 June 2000 the Deputy Chancellor of Justice decided not to take measures.

By its judgment of 15 May 2000 the Supreme Court rejected all claims without issuing a writ of summons, as it considered that the case could be examined on the basis of the judges' and the legal clerk's observations and

without an oral hearing, finding that, having regard to the subject matter, a hearing could not clarify the situation given that the case consisted of written material only. In these circumstances, the witnesses proposed by the applicants could not possess any relevant information. It reasoned its decision to reject the claims by referring to the margin of appreciation of the courts. In particular, it noted that Mr Pitkänen had commented on the question whether he could be ordered to pay costs "thrown away" both before the District Court and the Court of Appeal.

B. Relevant domestic law

Chapter 21, section 5 (1013/1993) of the Code of Judicial Procedure (*oikeudenkäymiskaari, rättegångsbalken*) provides: If a party has been absent from court, failed to heed the orders issued by the court, made a statement which he or she has known or should have known not to be pertinent, or otherwise prolonged the trial by unlawful conduct, and thus deliberately or negligently caused the other party to incur legal costs, he or she shall be liable for such costs regardless of how the liability for legal costs otherwise is determined.

According to section 6, the lawyer of a party to the proceedings, who in a manner referred to in section 4 or 5, deliberately or negligently has caused the other party to incur legal costs, may be ordered, jointly with the [first-mentioned] party to the proceedings, to compensate for the said costs after he or she has been provided with an opportunity to be heard.

COMPLAINTS

The applicants complain, under Article 6 § 1 of the Convention, that they in general did not receive a fair trial by impartial tribunals in the above-mentioned proceedings. In addition they make the following complaints in particular:

1. Mr Törmälä, Oilco Oy Ltd and KHK complain that the decision in the first set of civil proceedings was kept "secret" which prevented an appeal against it within the time-limit. They also complain that the bank's claim and the counterclaim should have been dealt with jointly, *i.e.* the District Court should not have given a separate decision on 26 January 1994.

2. Mr Törmälä, Oilco Oy Ltd and KHK complain that the company should not have been wound-up, as the debt was based on a criminal act and was thus not indisputable within the meaning of the Winding-up Act (*konkurssisääntö, konkursstadgan*). The Supreme Court should have granted leave to appeal. The winding-up order violated Oilco Oy Ltd's

property rights. They invoke Article 1 of Protocol No. 1 to the Convention in this respect.

3. Mr Törmälä, Oilco Oy Ltd, KHK and Mr Pitkänen complain that the Court of Appeal should have held an oral hearing in the usury proceedings. Its judgment was not duly reasoned, either. Nor did the Supreme Court give reasons for refusing leave to appeal. Mr Pitkänen also complains about the fact that the Court of Appeal ordered him to pay costs "thrown away" although he had shown no negligence and although he was not heard before the Court of Appeal. Mr Pitkänen furthermore complains that the reasoning of the judgment was discriminatory, as the right to a fair trial cannot depend on whether a person is solvent. He invokes Article 14 of the Convention and Article 1 of Protocol No. 1 to the Convention.

4. Mr Törmälä, Oilco Oy, KHK and Mr Pitkänen complain that the Supreme Court in the abuse of office proceedings "acted as a defence counsel". The Supreme Court should have served the summons upon the accused, requested that they give a detailed answer to the charges and held both a preparatory and an oral hearing and heard the witnesses proposed by the applicants. The applicants also complain that the Supreme Court gave judgment before they had informed it that the pleadings were closed and that the judgment was reasoned using only arguments favouring the accused. For these reasons, the proceedings before the Supreme Court did not furnish an effective remedy against the wrongdoings of the Court of Appeal, either. Mr Pitkänen complains that the Supreme Court did not give an answer as to whether it considered that an insolvent client has no right to a fair trial. Furthermore, the applicants complain that some of the Supreme Court judges were no longer in office when judgment was delivered, nor did they sign it. Moreover, they complain that neither the Parliamentary Ombudsman nor the Chancellor of Justice ordered a pre-trial investigation. The applicants invoke Articles 6 § 3 (c), 13 and 14 of the Convention.

5. Finally, the applicants complain that they have lost their property due to the bank's actions. They invoke Article 1 of Protocol No. 1 to the Convention in this respect.

THE LAW

Leaving aside the question as to the whether each applicant is directly affected by the alleged violations of the Convention, the Court notes that they complain that their right to a fair trial by an impartial tribunal and their property rights have been violated. The applicants also complain about discrimination and the lack of an effective remedy. They invoke Articles 6, 13 and 14 of the Convention and Article 1 of Protocol No. 1 to the Convention.

A. Article 6 of the Convention

The applicants complain under Article 6 of the Convention that they did not receive a fair trial by an impartial tribunal in the above-mentioned proceedings.

Article 6 provides, in relevant part:

> "1. 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.
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require"

1. Civil proceedings

(a) As to the complaints concerning the first set of civil proceedings, the Court notes that the applicants learnt about the District Court's decision of 26 January 1994, which they claim was not communicated to them, in September 1994. The applicants' extraordinary appeal was partly rejected and partly dismissed by the Supreme Court on 29 October 1999.

The Court need not decide whether this complaint has been introduced within the six months' time-limit prescribed by Article 35 § 1 of the Convention and whether the extraordinary appeal is a remedy the exhaustion of which is required by that provision. Even assuming so, the Court notes that the claim concerning non-communication of the District Court's decision of 26 January 1994 was dismissed on the ground that the extraordinary appeal had been lodged outside the one year time-limit from the date the District Court's decision gained legal force. Thus, the applicants have failed to exhaust the remedy in question within the time prescribed by domestic law.

(b) As regards the complaints concerning the second set of the civil proceedings, the Court finds that the applicants have not shown that they have requested leave to appeal against the Court of Appeal's decision of 29 February 1996.

It follows that these complaints must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

2. Winding-up proceedings

As to the complaint that Oilco Oy Ltd was allegedly wound-up on false grounds, the Court recalls that, in accordance with Article 19 of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties in the Convention. In particular, it is not

competent to deal with an application alleging that errors of law or fact have been committed by domestic courts, except where it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention (see *Schenk v. Switzerland*, judgment of 12 July 1988, Series A no. 140, p. 25, § 45).

The Court considers that the facts relied on in support of the complaints in respect of the winding-up proceedings do not disclose an appearance of any violation.

It follows that the complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

3. Criminal proceedings concerning usury

The Court notes that the proceedings did not concern a criminal charge against Mr Törmälä, Oilco Oy Ltd or KHK and therefore Article 6 § 1 is not applicable under its "criminal head". It recalls that Article 6 § 1 under its "civil head" applies only to proceedings concerning the "determination" of a "civil right".

The Court reiterates that, according to the principles laid down in its case-law (see, among other authorities, *Acquaviva v. France*, judgment of 21 November 1995, Series A no. 333-A, p. 14, § 46), it must ascertain whether there was a dispute ("contestation") over a "civil right" which can be said, at least on arguable grounds, to be recognised under domestic law. The dispute must be genuine and serious; it may relate not only to the existence of a right but also to its scope and the manner of its exercise; and, finally, the outcome of the proceedings must be directly decisive for the right in question.

The Court observes that at no stage in the proceedings did Mr Törmälä, Oilco Oy Ltd and KHK present any claim for damages caused by the alleged offences. The sole object of the proceedings was to secure the defendants' conviction by way of a private prosecution. However, proceedings intended to have third parties prosecuted or sentenced for a criminal offence do not concern civil rights (see *Perez v. France* [GC], no. 47287/99, § 70, 12 February 2004).

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

4. Criminal proceedings concerning abuse of office

(a) As to the complaint that no pre-trial investigation was carried out concerning the alleged negligence of the judges of the Court of Appeal and the legal clerk who prepared the case, the Court notes that Article 6 does not

guarantee a right to have criminal proceedings instituted against a third party.

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

(b) As to the complaint about the lack of an oral hearing before the first and only court instance, the Court notes that the Supreme Court reasoned its decision not to hold an oral hearing by referring to the character of the case. It considered that as the alleged offences had taken place related to the judges' and the legal clerk's examination of the case and these deliberations were confidential, holding an oral hearing could not bring any clarification to the case that consisted of written material only. The witnesses proposed by the applicants could not possess any relevant information as to the circumstances. The Court sees no reason to differ.

The Court finds that Article 6 § 1 is not applicable under its "criminal head", given that the applicants were not themselves charged with a criminal offence in the proceedings in question. Likewise Article 6 § 3 (c) does not apply to the present case.

The Court recalls that the applicability of Article 6 § 1 under its "civil head" requires the existence of a "genuine and serious dispute" over a "civil right" which can be said, at least on arguable grounds, to be recognised under domestic law. A claim submitted to a tribunal for determination must be presumed to be genuine and serious unless there are clear indications to the contrary which might warrant the conclusion that the claim is frivolous or vexatious or otherwise lacking in foundation (see *Rolf Gustafson v. Sweden*, judgment of 1 July 1997, *Reports of Judgments and Decisions* 1997-IV, § 38 and further references therein).

The Court notes that in their private prosecution, Mr Törmälä and Mr Pitkänen claimed legal costs. Moreover, Mr Pitkänen claimed compensation, FIM 200,000 (EUR 33,637), for damage caused by the alleged defamation. The Court will assume that the right to such damages could be said, at least on arguable grounds, to be recognised under domestic law. There was thus, in principle, a dispute regarding a "civil right" (*a contrario*, *Hamer v. France*, judgment of 7 August 1996, *Reports* 1996-III, p. 1044, §§ 75-78).

In examining whether the judges and the legal clerk had acted contrary to their official duties, the Supreme Court relied on its own file in the usury proceedings. That file would have included, *inter alia*, the District Court's judgment and the official minutes from its hearings, the transcript of the witness testimonies, the Court of Appeal's judgment and the parties' written submissions.

Mr Pitkänen was not prevented from expressing before the Supreme Court his misgivings concerning the Court of Appeal judges' and the legal clerk's conduct of the trial already during the usury proceedings.

Finally, it is noteworthy that neither the Parliamentary Ombudsman nor the Deputy Chancellor of Justice supported the applicants' private prosecution.

The Court has considerable doubts whether the dispute was "genuine and serious" within the meaning of the Court's case-law (see *Kaukonen v. Finland*, no. 24738/94, Commission decision of 8 December 1997). Even assuming so, the Court considers that the Supreme Court's decision not to hold an oral hearing does not, in the circumstances of this case, disclose an appearance of any violation of Article 6 of the Convention.

As to the other complaints made under Article 6, the Court considers that the facts relied on do not disclose an appearance of any violation.

It follows that the complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

B. Article 6 taken alone and in conjunction with Article 14 of the Convention

Applicant Mr Pitkänen complains under Article 6 taken alone and in conjunction with Article 14 of the Convention that he was ordered to pay costs "thrown away" although he had not been negligent and although he was not heard before the Court of Appeal. Moreover, the reasoning of the judgment was discriminatory as the right to a trial cannot depend on whether a person is solvent.

Article 14 of the Convention 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 argue that Article 6 § 1 does not apply to the proceedings at issue, as they did not involve the determination of Mr Pitkänen's civil rights or obligations, nor of a criminal charge against him. They refer to the following case-law: *B. v. the United Kingdom* (no. 10615/83, Commission decision of 3 July 1984, D.R. 38, pp. 213-215), *Engel and Others v. Netherlands* (judgment of 8 June 1976, Series A no. 22, p. 35, § 82), *Govert van Ginsbergen v. the Netherlands* (no. 12191/86, Commission decision of 8 September 1988), and *Pertti Kinnunen v. Finland* (no. 50537/99, Committee decision of 2 October 2000).

The Government contend that the evaluation of Mr Pitkänen's professional conduct was based on the requirement that the rules of the courts are observed in order to avoid unnecessary proceedings and the court order must be regarded as a disciplinary measure in the context of the administration of justice. Accordingly, the court proceedings in which the extent of the applicant's liability was determined did not concern his civil rights or obligations. They had no bearing, either directly or indirectly, on

the right of Mr Pitkänen to continue to exercise his profession. Although the court order involved the imposition of a sanction, the nature of the proceedings and the severity of the penalty are not such as to constitute a "determination of a criminal charge". However, the Government recognise that a decision whereby a counsel is ordered to pay costs "thrown away" might, in some cases, have substantial economic consequences for the lawyer concerned.

Should the Court conclude that Article 6 § 1 is applicable, the Government submit that Mr Pitkänen did have a fair trial as the defendants had presented their claim for costs already before the District Court and repeated it before the Court of Appeal. Mr Pitkänen commented on the issue before the Court of Appeal. Thus, the complaint is in any case manifestly ill-founded.

The applicant argues that Article 6 is applicable to the present case as the decision to order him to pay legal costs amounts to a punishment and violates his right to a good reputation. His right to exercise his profession has been endangered in that the obligation to pay legal costs was a signal that the court did not want to see him appear as counsel. The decision was aiming at preventing him from practising.

The applicant maintains that he was not afforded an opportunity to address the issue before the Court of Appeal and he was therefore not able to correct some misunderstandings. There were no lawful grounds for ordering him to pay legal costs and the Court of Appeal's reasoning was not based on facts as the applicant was in no way negligent, nor did he delay the proceedings.

Before determining, if need be, the question of compliance with Article 6, the Court must decide whether that provision is applicable.

Referring to its case-law, the Court finds that the proceedings did not involve the determination of a civil right of counsel or of a criminal charge against him within the meaning of Article 6 § 1 of the Convention (see *B. v. the United Kingdom*, cited above). Thus, Article 6 is not applicable.

As to the complaint concerning allegedly discriminatory reasoning in the Court of Appeal's judgment, the Court notes that there can be no room for the application of Article 14, unless the facts at issue fall within the ambit of one of the other substantive provisions of the Convention.

It follows that these complaints are incompatible *ratione materiae* and manifestly ill-founded, respectively, with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

C. Article 1 of Protocol No. 1 to the Convention

The applicants complain under Article 1 of Protocol No. 1 that the bank's actions, the winding-up order and the judgment concerning costs "thrown away" violated their property rights.

Article 1 of Protocol No. 1 provides:

> "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."

(a) The Court finds that the applicants' complaint as to the bank's actions does not concern an interference with their Convention rights by the authorities of the respondent State, the legal person in question not being capable of engaging the State's responsibility under Articles 1 and 34 of the Convention.

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

(b) As to the winding-up order and the costs "thrown away", the Court recalls that domestic court regulation of property disputes according to domestic law does not, by itself, raise any issues under Article 1 of Protocol No. 1 to the Convention. It finds no indication in the present case that the conclusion of the domestic courts interfered with the applicant's property rights contrary to Article 1 of Protocol No. 1 to the Convention.

It follows that these complaints are manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and must be rejected in accordance with Article 35 § 4.

D. Article 13 of the Convention

The applicants complain under Article 13 of the Convention that the Supreme Court did not furnish an effective remedy in the criminal proceedings concerning abuse of office *etc*.

Article 13 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."

According to the Court's case-law, Article 13 applies only where an individual has an "arguable claim" to be the victim of a violation of a

Convention right (see *Boyle and Rice v. the United Kingdom*, judgment of 27 April 1988, Series A no. 131, § 52).

The Court has above found that the applicants' complaints as regards the proceedings concerning abuse of office *etc*. are manifestly ill-founded. It follows that the applicants do not have an "arguable claim" and their complaints do not attract the guarantees of Article 13. This part of the application must also be rejected as manifestly ill-founded pursuant to Article 35 §§ 3 and 4.

For these reasons, the Court unanimously

Declares the application inadmissible.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President