

Press release issued by the Registrar

CHAMBER JUDGMENT
JUPPALA v. FINLAND

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Juppala v. Finland* (application no. 18620/03).

The Court held unanimously that there had been a **violation of Article 10** (freedom of expression) of the European Convention on Human Rights concerning Ms Juppala's conviction for defamation of her son-in-law after she had taken her three-year-old grandson to a doctor and voiced a suspicion that he might have been hit by his father.

Under Article 41 (just satisfaction) of the Convention, the Court awarded Ms Juppala 3,000 euros (EUR) in respect of non-pecuniary damage, EUR 3,616.41 in respect of pecuniary damage and EUR 2,695.83 for costs and expenses. (The judgment is available only in English.)

1. Principal facts

The applicant, Eine Juppala, is a Finnish national who was born in 1929 and lives in Ylöjärvi (Finland).

On 20 July 2000 the applicant took her grandson, three years old at the time, to a doctor on account of a bruise on his back; she voiced concern that the injury had been caused by the boy's father, T.. She also informed the doctor that the boy had said that he had been punched. The doctor wrote in his report that the bruising was consistent with a punch and that, on being interviewed, the boy had repeated that he had been hit by his father. Later that day, the doctor alerted the child protection services.

On 26 April 2001 charges were brought against the applicant for defamation on the ground that she had given information to the doctor which implied that T. had assaulted his son and that she did not have reasonable cause to support her allegation. T. joined the proceedings in May 2001 claiming compensation for non-pecuniary damage.

Following an oral hearing on 24 August 2001 Tampere District Court rejected the charge: it found that it was not clear whether the applicant had implied that the boy had been hit by his

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

father or whether the doctor's report had merely recorded his own impression based on the discussion with the applicant and her grandson.

However, that judgment was overturned on appeal and the applicant was found guilty of defamation. She was ordered to pay EUR 3,365.67 compensation for non-pecuniary damage and legal costs. The Court of Appeal found, in particular, that the fact that the applicant had discussed the bruise with the boy, only three years old at the time, and that he had told the doctor that his father had hit him did not constitute reasonable enough causes for the allegation of abuse. Nor had the applicant given any other reasons on which she had based her allegation.

The Supreme Court refused leave to appeal on 17 December 2002.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 16 June 2003.

Judgment was given by a Chamber of seven judges, composed as follows:

Nicolas **Bratza** (United Kingdom), *President*,
Lech **Garlicki** (Poland),
Giovanni **Bonello** (Malta),
Ljiljana **Mijović** (Bosnia and Herzegovina),
Päivi **Hirvelä** (Finland),
Ledi **Bianku** (Albania),
Nebojša **Vučinić** (Montenegro), *judges*,

and also Lawrence **Early**, *Section Registrar*.

3. Summary of the judgment¹

Complaint

Relying on Article 10, the applicant complained about her conviction for defamation even though she had only honestly voiced her impression of the causes of her grandchild's bruises to a doctor.

Decision of the Court

Article 10

The parties agreed that the applicant's conviction had constituted an interference with her right to freedom of expression and that it had pursued a legitimate aim, namely the protection of the reputation or rights of others. The Court accepted that the applicant's criminal conviction had been "prescribed by law" as it had been based on a reasonable interpretation of the Penal Code in force at the time and that the order requiring her to pay damages had been based on the relevant provision of the Tort Liability Act.

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

The Court considered that the essential question was how to strike a proper balance when a parent was wrongly suspected of having abused his or her child, while, given the difficulties in uncovering child abuse, protecting children at risk of significant harm.

In particular, the Court found it alarming that the Court of Appeal had taken the view that, even though there was no doubt that she had seen her grandson's bruised back, the applicant had not been entitled to repeat what the boy had told her, that is, that he had been hit by his father, an allegation which he had indeed repeated when interviewed by the doctor. Moreover, voicing a suspicion of child abuse, formed in good faith, in the context of an appropriate reporting procedure should be available to any individual without fear of a criminal conviction or an obligation to pay compensation for harm suffered or costs incurred.

It had not been argued before the domestic courts or before the European Court that the applicant had acted recklessly, that is without caring whether her grandson's allegation of abuse had been well-founded or not. On the contrary, even a health care professional had made his own assessment and had rightly considered that the case should be reported to the child welfare authorities.

The Court concluded that sufficient reasons for the interference with the applicant's right to freedom of expression had not been provided and that that interference had therefore failed to answer any "pressing social need". Accordingly, there had been a violation of Article 10.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.