



## Photographer's conviction of disobeying the police while covering a demonstration did not breach his freedom of expression

In today's Chamber judgment in the case of [Pentikäinen v. Finland](#) (application no. 11882/10), which is not final<sup>1</sup>, the European Court of Human Rights held, by a majority, that there had been:

**no violation of Article 10 (freedom of expression) of the European Convention on Human Rights**

The case concerned the arrest of a media photographer during a demonstration and his subsequent conviction for disobeying the police.

The Court underlined in particular that Mr Pentikäinen had not been arrested for acting as a photographer but for refusing to obey police orders to leave the scene of the demonstration. His equipment had not been confiscated and he had not been sanctioned.

### Principal facts

The applicant, Markus Veikko Pentikäinen, is a Finnish national who was born in 1980 and lives in Helsinki (Finland). He is a photographer and journalist employed by a weekly magazine.

Mr Pentikäinen was sent by his employer to take photos of a demonstration held in the evening of 9 September 2006 in protest against the Asia-Europe meeting (ASEM) in Helsinki. After the demonstration had turned violent, the police stopped the event, sealed off the demonstration area and allowed demonstrators to leave. Mr Pentikäinen remained in the area, where a small group of demonstrators was still gathered, to cover the events. Together with them he was arrested. He remained in police detention from around 9.30 pm until his release the next day at 3 pm.

Mr Pentikäinen was convicted for disobeying the police in December 2007, the judgment being eventually upheld by the Supreme Court in September 2009. The courts did not impose any penalty on him, holding that his offence was excusable since as a journalist he had been faced with contradictory expectations, arising from the obligations imposed on the one hand by the police and on the other by his employer.

### Complaints, procedure and composition of the Court

Mr Pentikäinen complained that his rights under Article 10 (freedom of expression) had been violated by his arrest and conviction, as he had been prevented from doing his job as a journalist.

The application was lodged with the European Court of Human Rights on 19 February 2010.

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

Ineta Ziemele (Latvia), *President*,  
Päivi Hirvelä (Finland),

<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

George Nicolaou (Cyprus),  
Ledi Bianku (Albania),  
Vincent A. de Gaetano (Malta),  
Paul Mahoney (the United Kingdom),  
Faris Vehabović (Bosnia and Herzegovina),

and also Fatoş Aracı, *Deputy Section Registrar*.

## Decision of the Court

### Article 10

The Court considered that Mr Pentikäinen's arrest and conviction, being a consequence of his conduct as newspaper photographer and journalist, had constituted an interference with his freedom of expression as guaranteed by Article 10. The interference had had a basis in Finnish law and had pursued legitimate aims, namely the protection of public safety and the prevention of disorder and crime.

As regards the question of whether the interference had been "necessary in a democratic society" within the meaning of article 10, the Court first observed that Mr Pentikäinen had not been prevented from taking photos of the demonstration. No equipment had been confiscated and he had been allowed to keep all the photos he had taken and to use them without restriction. Furthermore, the Finnish courts had found it established that he had been aware of the police orders to leave the scene after the demonstration had turned violent, but had decided to ignore them instead of moving to a separate secure area which had been reserved for the press. Moreover, according to witness statements given before the Finnish courts, he had failed to make it sufficiently clear to the police when being arrested that he was a journalist.

The Court considered that Mr Pentikäinen had not been prevented from exercising his freedom of expression as such. He had been offered the alternative to follow the demonstration from the secured area for the press. Moreover, he had been arrested and convicted only for refusing to obey police orders, not because of his journalistic activity. The Court also took into account the submission of the Finnish Government that Mr Pentikäinen's 18-hour police detention was to be explained by the fact that he was detained late at night and that Finnish law prohibited interrogations at nighttime.

There was no doubt that the demonstration had been a matter of legitimate public interest justifying that the media reported on it. However, the Finnish courts had balanced Mr Pentikäinen's freedom of expression against the necessity to disperse the crowds with a view to ensuring public safety. Finally, under Finnish law, since no penalty had been imposed on Mr Pentikäinen, no entry of his conviction had been made in his criminal record.

The court concluded that the Finnish courts had struck a fair balance between the competing interests at stake. They had therefore been entitled to decide that the interference had been "necessary in a democratic society". Accordingly there had been no violation of Article 10.

## Separate opinions

Judges Judges Nicolaou and De Gaetano expressed a joint dissenting opinion, which is annexed to the judgment.

*The judgment is available only in English.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

**Press contacts**

[echrpress@echr.coe.int](mailto:echrpress@echr.coe.int) | tel: +33 3 90 21 42 08

**Nina Salomon (tel: + 33 3 90 21 49 79)**

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Jean Conte (tel: + 33 3 90 21 58 77)

**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.