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

SECOND SECTION

CASE OF SEGERSTEDT-WIBERG AND OTHERS v. SWEDEN

(Application no. 62332/00)

JUDGMENT

STRASBOURG

6 June 2006

FINAL

06/09/2006

In the case of Segerstedt-Wiberg and Others v. Sweden,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Jean-Paul Costa, *President*,
András Baka,
Ireneu Cabral Barreto,
Antonella Mularoni,
Elisabet Fura-Sandström,
Danutė Jočienė,
Dragoljub Popović, *judges*,
and Sally Dollé, *Section Registar*,

Having deliberated in private on 20 September 2005 and 16 May 2006,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 62332/00) against the Kingdom of Sweden lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 7 October 2000 by five Swedish nationals: (1) Ms Ingrid Segerstedt-Wiberg (born in 1911), (2) Mr Per Nygren (born in 1948), (3) Mr Staffan Ehnebom (born in 1952), (4) Mr Bengt Frejd (born in 1948) and (5) Mr Herman Schmid (born in 1939) ("the applicants").

2. The applicants were represented by Mr D. Töllborg, Professor of Law, practising as a lawyer in Västra Frölunda. The Swedish Government ("the Government") were represented by their Agent, Mr C.H. Ehrenkrona, of the Ministry of Foreign Affairs.

3. The applicants alleged, in particular, that the storage in the Security Police files of certain information that had been released to them constituted unjustified interference with their right to respect for private life under Article 8 of the Convention. Under this Article, they further complained of the refusal to advise them of the full extent to which information concerning them was kept on the Security Police register. The applicants also relied on Articles 10 and 11. Lastly, they complained under Article 13 that no effective remedy existed under Swedish law in respect of the above violations.

4. The application was allocated to the Fourth Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section (Rule 52 § 1).

6. By a decision of 20 September 2005, the Chamber declared the application partly admissible.

7. The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other's observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The present application was brought by five applicants, all of whom are Swedish nationals: (1) Ms Ingrid Segerstedt-Wiberg (born in 1911), (2) Mr Per Nygren (born in 1948), (3) Mr Staffan Ehnebom (born in 1952), (4) Mr Bengt Frejd (born in 1948) and (5) Mr Herman Schmid (born in 1939). The first applicant lives in Gothenburg, the second applicant lives in Kungsbacka and the third and fourth applicants live in Västra Frölunda, Sweden. The fifth applicant lives in Copenhagen, Denmark.

A. The first applicant, Ms Ingrid Segerstedt-Wiberg

9. The first applicant is the daughter of a well-known publisher and anti-Nazi activist, Mr Torgny Segerstedt. From 1958 to 1970 she was a Liberal member of parliament. During that period she was a member of the Standing Committee on the Constitution (*konstitutionsutskottet*). She has also been Chairperson of the United Nations Association of Sweden. She is a prominent figure in Swedish political and cultural life.

10. On 22 April 1998, relying on section 9A of the Police Register Act (*lag om polisregister m.m.*, 1965:94), the first applicant made a request to the Minister of Justice for access to her Security Police records. She said that she had become aware of certain material held by the foreign service of the United States of America from which it appeared that since the Second World War she and others had been under continuous surveillance, in particular because of her work for the United Nations Association of Western Sweden. That information had originated from Sweden and had apparently been communicated by the United States to other countries in order to cause her damage and harm her work for the protection of refugees. She also referred to the spreading of rumours that she was "unreliable" in respect of the Soviet Union. Those rumours had started during the 1956

parliamentary elections, but had not prevented her, a couple of years later, being returned to Parliament or sitting on its Standing Committee on the Constitution.

By a decision of 17 June 1998, the Ministry of Justice refused her request. It pointed out that absolute secrecy applied not only to the content of the police register but also to whether or not a person was mentioned in it. The government considered that the reasons relied on by the first applicant, with reference to section 9A of the Police Register Act, could not constitute special grounds for derogation from the rule of absolute secrecy.

Appended to the refusal was a letter signed by the Minister of Justice, pointing out that neither the first applicant's previous access to material indicating that she had been the subject of secret surveillance nor the age of any such information (40 to 50 years old) could constitute a special reason for a derogation under section 9A of the Act. The Minister further stated:

> "As you may be aware, some time ago the government submitted a proposal to Parliament as to the manner in which the Security Police register should be made more accessible to the public. It may be of interest to you to know that a few weeks ago Parliament passed the bill, which means that absolute secrecy will be abolished. The bill provides that the Security Police must make an assessment of the need for secrecy on a case-by-case basis, which opens up new possibilities for individuals to see records that are today covered by absolute secrecy. It is first of all historical material that will be made accessible."

11. On 28 April 1999, following an amendment on 1 April 1999 to Chapter 5, section 1(2), of the Secrecy Act 1980 (*sekretesslagen*, 1980:100), the first applicant submitted a new request to the Security Police to inform her whether or not her name was on the Security Police register.

On 17 September 1999 the Security Police decided to grant the first applicant authorisation to view "seventeen pages from the Security Police records, with the exception of information about Security Police staff and information concerning the Security Police's internal [classifications]". Beyond that, her request was rejected, pursuant to Chapter 5, section 1(2), of the Secrecy Act 1980, on the ground that further "information could not be disclosed without jeopardising the purpose of measures taken or anticipated or without harming future operations".

On 4 October 1999 the first applicant went to the headquarters of the Security Police in Stockholm to view the records in question. They concerned three letter bombs which had been sent in 1990 to Sveriges Radio (the national radio corporation of Sweden), to her and to another well-known writer (Hagge Geigert) because of their stand against Nazism and xenophobia and in favour of the humanitarian treatment of refugees in conformity with international treaties ratified by Sweden. The Security Police had gathered a number of police reports, photographs and newspaper cuttings, and had reached the conclusion that there was nothing to confirm

the suspicion that there was an organisation behind the letter bombs. That was all the information the first applicant was allowed to view.

12. On 8 October 1999 the first applicant instituted proceedings before the Administrative Court of Appeal (*kammarrätten*) in Stockholm, requesting authorisation to view the entire file on her and other entries concerning her that had been made in the register. In a judgment of 11 February 2000, the court rejected her request. Its reasoning included the following:

> "The Administrative Court of Appeal considers that, beyond what emerges from the documents already released, it is not clear that information about whether or not [the first applicant] is on file in the Security Police records regarding such activities as are referred to in Chapter 5, section 1(2), could be disclosed without jeopardising the purpose of measures taken or anticipated or without harming future operations."

13. On 28 February 2000 the first applicant appealed to the Supreme Administrative Court (*Regeringsrätten*). She submitted that the rejection of her request had left her with the impression of being accused of involvement in criminal activities. In order to counter these accusations, she requested permission to see all files concerning her.

On 10 May 2000 the Supreme Administrative Court refused the first applicant leave to appeal.

14. During the proceedings before the Strasbourg Court, the Government provided the following additional information.

The first applicant was put on file for the first time in 1940. The Security Police were interested in her because of the circles in which she moved and which, during the war in Europe, were legitimately targeted by the security services. In accordance with the legislation in force at the relevant time, additional entries were made in her file until 1976, in part on independent grounds and in part to supplement records entered previously.

Between 1940 and 1976, information and documents regarding the first applicant had been collected in the filing system that existed at the time. While those documents were microfilmed, no documents concerning her had been microfilmed since 1976. The documents contained in the file were probably weeded some time before 1999. However, while backup copies on microfiche had been retained, they were not accessible in practice, unless marked as having already been "deactivated".

A new filing system was introduced in 1980-82. As the first applicant came under a bomb threat in 1990, a new file on her was opened under the new system. It included a reference to the previous file under the old system and the microfilm number required to retrieve the microfiche. The Security Police's register was also updated with the new information regarding the first applicant. The 1990 file had also been weeded. It was not destroyed but transferred to the National Archives.

The first applicant was again put on file by the Security Police in 2001, because of a new incident that could have been interpreted as a threat against her.

On 13 December 2002 the Security Police decided of their own accord to release all stored information that had been kept about the applicant until 1976, representing fifty-one pages. No copies of these documents or particulars of their specific content were submitted to the Court.

B. The second applicant, Mr Per Nygren

15. The second applicant is an established journalist at *Göteborgs-Posten*, one of the largest daily newspapers in Sweden. He is the author of a number of articles published by that paper on Nazism and on the Security Police that attracted wide public attention.

16. On 27 April 1998 the Security Police rejected a request by the applicant for access to their quarterly reports on communist and Nazi activities for the years 1969 to 1998, and for information on which authorities had received those reports.

17. By a letter of 7 June 1999 addressed to the Security Police, the second applicant stated that, having received one of the quarterly reports from the police in Karlskrona, he had become aware that the Security Police had been interested in him; he therefore wished "to read [his] file and all other documents at [their] disposal where [his] name might occur". In addition, the second applicant made a similar request in respect of his recently deceased father, in accordance with the latter's wishes.

In a decision of 11 November 1999, the Security Police allowed the applicant's request in part by replying that his father did not appear in any files or entries in the register and rejected the remainder of his request. It stated:

> "As from 1 April 1999 the treatment of personal data by the Security Police of the kind referred to in your request is governed in the first place by the Police Data Act (1998:622).
>
> According to Chapter 5, section 1(2), of the Secrecy Act (1980:100), secrecy applies to information relating to undercover activities under section 3 of the Police Data Act or that otherwise falls within the Security Police's remit in preventing or revealing crimes committed against the security of the Realm or in preventing terrorism, if it is not clear that the information may be imparted without jeopardising the purpose of the decision or measures planned or without harm to future activities. The implied starting-point is that secrecy applies as the main rule irrespective of whether the information, for example, appears in a file or emanates from a preliminary investigation or undercover activities.
>
> In the preparatory work for the relevant provision of the Secrecy Act (*prop.* 1997/98:97, p. 68), it is stated that even information about whether a person is mentioned in a secret intelligence register should be classified in accordance with

> Chapter 5, section 1, of the Secrecy Act. It is further stated that in view of the nature of undercover activities only in special circumstances can there be a question of disclosing information. If there are no such circumstances, the government assume in accordance with the preparatory work that even the information that a person is not registered is classified as secret under the Act.
>
> In the present case the Security Police consider that ... the fact that your father was born in 1920 and has recently passed away satisfies the kind of conditions in which information can be disclosed that a person is not registered.
>
> In so far as your request concerns yourself, it is rejected for the reasons given in the preparatory work and the relevant provisions of the Secrecy Act."

According to the applicant, the above reasons given for the rejection of the request made for access to his own records were identical to those given in all other rejection cases.

18. In their pleadings to the Court, the Government stated that at the time of the Security Police's decision on 11 November 1999 it had not been possible to find the file owing to the fact that the second applicant had not been the subject of a personal record in connection with the report in issue.

19. On 25 November 1999 the second applicant appealed to the Administrative Court of Appeal in Stockholm, requesting authorisation to view his file and all other entries made on him by the Security Police. He relied on certain written evidence to the effect that he had been mentioned in the records of the Security Police, notably on the cover page and page 7 of a secret report dating back to the third quarter of 1967 and emanating from Section (*byrå*) A of the Security Police, that had been released by the Karlskrona police shortly beforehand. The report was entitled "Presentation on communist and Nazi activities in Sweden from July to September 1967". Page 7 contained the following statement:

> "On 18-20 September a meeting was held within the DUV [*Demokratisk Ungdoms Världsfederation* – World Federation of Democratic Youth] in Warsaw. A youngster, probably [identifiable as] Mr Per Rune Nygren from Örebro, participated as a representative for the VUF [*Världsungdomsfestivalen* – World Youth Festival]."

The second applicant requested, in particular, access to the quarterly reports for the years 1969-98 and information regarding the authorities to which those reports had been communicated. He stressed that since he had never been convicted, charged or notified of any suspicion of crime and had never taken part in any illegal, subversive or terrorist activity, refusing him full access to the files could not be justified. The wishes of the Security Police to maintain secrecy about their work should have been balanced against his interest in clarifying the extent of the violation that he had suffered, not only through their collection of information about him but also through their disclosure of such information.

20. In accordance with standard procedure, the appeal was brought to the attention of the Security Police, who then decided, on 20 December

1999, to release the same two pages of the 1967 report referred to above, while maintaining their refusal regarding the remainder of the second applicant's initial request. The reasons given were largely the same as in the first decision, with the following addition:

> "In the Security Police archives there are a number of documents which contain information both about different subject matter and individuals. The fact that such documents exist in the Security Police's archives does not mean that all information in the documents is registered and therefore searchable. Information which is not registered can only be retrieved if details have been submitted about the document in which the information is contained. Since you provided us with such details, it was possible for us to find the document you asked for in your request."

After receipt of the above decision, the second applicant had a telephone conversation with Ms Therese Mattsson, an officer of the Security Police (who had signed the decision of 27 April 1998). According to the applicant, she explained that, when dealing with requests such as his, only documents that were searchable by computer would be verified, which was the reason why the initial request had been rejected in its entirety and access had been granted to the two pages of the 1967 report.

21. In his appeal to the Administrative Court of Appeal, the applicant pointed out that from the above telephone conversation it emerged, firstly, that since 1969 several hundred thousand personal files in the Security Police's register had been destroyed. Secondly, information about persons whose files had been erased could still be found in the Security Police's archives but could not be searched under names or personal identity numbers. Thirdly, the so-called destruction lists, comprising several hundred thousand names, was all that remained of the erased files. The second applicant complained that the Security Police had failed to search those lists (assuming that the files no longer existed).

On 14 February 2000 the Administrative Court of Appeal dismissed the appeal in its entirety, giving essentially the same reasons as the Security Police, with the following further considerations:

> "In connection with the introduction of [section 3 of the Police Data Act], the government stated that even the information that a person is not registered by the Security Police is such that it should be possible to keep it secret under the said provision (*prop.* 1997/98:97, p. 68). According to the government bill, the reason is the following. A person who is engaged in criminal activity may have a strong interest in knowing whether the police have information about him or her. In such a case it could be highly prejudicial to the investigation for the person concerned to be informed whether or not he or she is of interest to the police. It is therefore important for a decision on a request for information from the register not to have to give information on whether the person appears in the register or not. The nature of secret intelligence is such that there can only be disclosure of information in special cases.
>
> The Administrative Court of Appeal finds that it is not clear that information, beyond that which emerges from the disclosed documents, about whether [the second applicant] has been the subject of any secret police activity falling under Chapter 5,

section 1(2), of the Secrecy Act can be disclosed without jeopardising the purpose of measures taken or anticipated or without harming future operations."

22. On 25 July 2000 the Supreme Administrative Court refused the second applicant leave to appeal.

C. The third applicant, Mr Staffan Ehnebom

23. The third applicant has been a member of the KPML(r) (*Kommunistiska Partiet Marxist-Leninisterna* – Marxist-Leninist (revolutionaries) Party, established in 1970) since 1978. He is an engineer, and since 1976 has been employed by the Ericsson Group.

24. On 10 April 1999, after the absolute secrecy requirement applying to information held in the records of the Security Police had been lifted on 1 April 1999, the third applicant submitted a request to the Security Police to see all files that might exist on him. By a decision dated 17 November 1999, the Security Police granted him access to thirty pages, two of which could only be read on the Security Police's premises and could not be copied by technical means. Copies of the twenty-eight remaining pages were sent to his home. Twenty-five of these consisted of the decision by the Parliamentary Ombudsperson concerning the above-mentioned matter and the three remaining pages were copies of press articles, two dealing with the applicant and a third, not mentioning him, consisting of a notice from the paper *Proletären* about a forthcoming 1993 KPML(r) party congress. Thus, all of the said twenty-five pages contained publicly available, not classified, material. The two pages which the third applicant was permitted to see on the Security Police's premises consisted of two security checks concerning him dating from 1980. These were copies of forms used by the FMV (the *Försvarets Materialverk*, an authority responsible for procuring equipment for the Swedish Army, and with whom the Ericsson Group worked) to request a personnel check (now known as a register check) concerning the third applicant. The registered information contained the following text in full:

"In September 1979 it was revealed that [the third applicant] was/is a member of the Frölunda cell of the KPML(r) in Gothenburg. At this time he was in contact with leading members of the KPML(r) regarding a party meeting in the Frölunda town square."

25. The third applicant submitted that the above information about his membership of the KPML(r) was the real reason for the FMV's demand that he be removed from his post, although every authority involved would deny this. He pointed out that the KPML(r) was a registered and lawful political party that took part in elections.

26. On 24 November 1999 the third applicant appealed against the decision of the Security Police to the Administrative Court of Appeal, maintaining his request to see all the material that the Security Police might

have on him. He disputed, *inter alia*, that the material released to him revealed that he constituted a security risk. In a judgment of 14 February 2000, the Administrative Court of Appeal rejected his request, giving the same type of reasons as in the cases of the first and second applicants.

27. On 13 April 2000 the Supreme Administrative Court refused the third applicant leave to appeal.

D. The fourth applicant, Mr Bengt Frejd

28. The fourth applicant has been a member of the KPML(r) since 1972, and the Chairman of *Proletären FF*, a sports club which has about 900 members, since 1974. He is renowned within sporting circles in Sweden and has actively worked with children and young people in sport, both nationally and internationally, to foster international solidarity and facilitate social integration through sport.

29. On 23 January 1999 the fourth applicant requested access to information about him contained in the Security Police register, which he suspected had been entered because of his political opinions. On 4 February 1999 the Security Police rejected his request under the rules on absolute secrecy.

30. The fourth applicant renewed his request after the abolition of the rule on 1 April 1999. On 8 February 2000 the Security Police granted the fourth applicant permission to see parts of his file.

This comprised, firstly, fifty-seven pages of paper cuttings and various information concerning him and other athletes and sports leaders, their participation in conferences, meetings and tournaments, and about sport and the promotion of social integration through sport, particularly involving international exchanges and solidarity in cooperation with the African National Congress in South Africa. There was information about a much publicised sports project in 1995, where representatives of several sports such as basketball, football and handball had left Sweden for South Africa with the aim of helping young people in black townships. A number of people from within the Swedish sports movement whom the fourth applicant had met, many of whom had no connection with any political organisations, had been mentioned in his file. These included, for example, a prominent sports leader, Mr Stefan Albrechtson, who had himself been subjected to Security Police surveillance.

The file further included a number of items dealing with sports organisations and events, such as an appeal (in the file from as late as 1993) from all the sports clubs in Gothenburg demanding lower fees for the use of sports fields, a document with the names of some one hundred people, including that of the fourth applicant, and in some instances their telephone numbers. A list of the participants at a spring meeting of the Gothenburg Handball League could also be found.

In addition to the above material, on 28 February 1999 the fourth applicant was granted access to two pages from his file, provided that they were read on the Security Police's premises and not reproduced by technical means. The pages contained the following information:

> "1 January 1973. F. is a member of the KPML(r) and has been working actively for six months. He is responsible for propaganda in the Högsbo-Järnbrott group of the KPML(r), 4 March 1975. According to an article in *Göteborgs Tidningen* of 4 March 1975, F. is the Chairman of *Proletären FF*, 9 June 1977. According to an article in *Stadsdelsnytt/Väster*, F. is one of the leaders of the youth section of *Proletären FF*, 6 September 1979. F. is number 19 on the KPML(r) ballot for the municipal elections in the fourth constituency of Gothenburg. Not elected."

31. On 1 March 2000 the fourth applicant appealed to the Administrative Court of Appeal against the decision of the Security Police, requesting to see his file in its entirety and all other records that might have been entered concerning him. He disputed the Security Police's right to store the information that had already been released to him, and stressed that none of it justified considering him a security risk.

On 12 May 2000 the Administrative Court of Appeal rejected the fourth applicant's appeal, basically on the same grounds as those stated in the judgments pertaining to the first, second and third applicants.

32. On 29 August 2000 the Supreme Administrative Court refused the fourth applicant leave to appeal.

E. The fifth applicant, Mr Herman Schmid

33. The fifth applicant was a member of the European Parliament from 1999 to 2004, belonging to the GUE/NGL Group and sitting for the Swedish Left Party (*Vänsterpartiet*).

34. On 9 December 1997 the fifth applicant filed a request with the Ministry of Defence to have access to the data files and all entries about him that may have been made in the Security Police registers. On 20 January 1998 the Ministry of Defence informed him that the request had been transmitted to the Defence Authority (*Försvarsmakten*) for decision. On the same date the fifth applicant was informed of another government decision to lift secrecy regarding certain information contained in an attachment B to a report entitled "The Military Intelligence Service, Part 2" (*Den militära underrättelsetjänsten. Del 2*). In this research document, which had previously been released to two journalists, it was stated:

> "One document ... contains the information that among the teachers listed in the Malmö ABF [*Arbetarnas Bildningsförbund* – Workers' Association of Education] study programme for the autumn of 1968 are sociologists Schmid and Karin Adamek. It was stated that both of them had previously been reported in different contexts."

On 19 March 1998 the National Police Authority sent a duplicate letter to the fifth applicant and an unknown number of others, announcing that their requests for access to registered information had been rejected.

35. On 29 October 1999 the Security Police took a new decision, granting the fifth applicant access to "eight pages from the Security Police archives with the exception of information regarding Security Police staff and ... internal classifications", on the condition that the documents be consulted on the Security Police's premises and not copied by technical means. As far as all other information was concerned, the initial rejection of his request remained, with the following standard reasoning:

> "All information about whether or not you are reported in other security cases filed by the Security Police is subject to secrecy according to Chapter 5, section 1(2), of the Secrecy Act. Thus, such information cannot be released without jeopardising the purpose of actions taken or planned, or without detriment to future activity."

On the above-mentioned date the fifth applicant went to the police headquarters in Malmö in order to have access to the eight pages in question. While under surveillance, he read out loud the text on each page and tape-recorded himself, for later transcription. According to a transcript provided by the applicant, the entries bore various dates between 18 January 1963 and 21 October 1975.

The above-mentioned entries concerned mostly political matters such as participation in a campaign for nuclear disarmament and general peace-movement activities, including public demonstrations and activities related to membership of the Social Democratic Student Association. According to one entry dated 12 May 1969, the fifth applicant had extreme left-wing leanings and had stated that during demonstrations one should proceed with guerrilla tactics in small groups and if necessary use violence in order to stage the demonstration and achieve its goals. There were also some notes about job applications he had made for university posts and a report he had given to the Norwegian police with his comments in connection with the murder of a Moroccan citizen, Mr Bouchiki, in Lillehammer on 21 July 1973. Finally, the documents contained entries on the opening of a boarding school for adults (*folkhögskola*) in 1984 in which the fifth applicant had played a major role.

The fifth applicant, for his part, challenged the allegation that he had advocated violence, saying that it was totally against his principles and emphasising that since 1960 he had been active in the peace movement in Skåne and was a well-known pacifist who had been imprisoned three times on account of his conscientious objection to military service.

36. On 29 November 1999 the applicant appealed to the Administrative Court of Appeal against the Security Police's refusal to give him access to all the information about him registered in their archives. He disputed their right to store the information to which he had had access. The appeal was

dismissed by a judgment of 15 May 2000 on the same grounds as those given to the other applicants in the present case.

37. On 27 June 2000 the Supreme Administrative Court refused the fifth applicant leave to appeal.

F. Particulars of the KPML(r) party programme

38. Clause 1 of the KPML(r) party programme states that the party is a revolutionary workers' party whose goal is the complete transformation of existing society. Clause 4 affirms that the power of the bourgeoisie in society is protected by the State and rests ultimately on its organs of violence, such as the police, armed forces, courts and jails, supplemented to some extent by private security companies. Clause 22 provides that the socialist transformation of society has to take place contrary to the laws and regulations of bourgeois society, and that for a transitional period a revolutionary dictatorship of the working class will be established. Clause 23 states that the forms of the socialist revolution are determined by the prevailing concrete conditions but that the bourgeoisie will use any means available to prevent the establishment of real people's power, and the revolutionary forces must therefore prepare themselves for an armed struggle. According to Clause 28, socialist democracy does not make any distinction between economic and political power, or between judicial and executive power, but subjects all social functions to the influence of the working people.

II. RELEVANT DOMESTIC LAW AND PRACTICE

39. Domestic provisions of relevance to the present case are found in a number of instruments. Certain constitutional provisions regarding freedom of opinion, expression and association found in the Instrument of Government (*regeringsformen*) provide the starting-point. This is also the case with regard to the principle of free access to official documents enshrined in the Freedom of the Press Ordinance (*tryckfrihetsförordningen*) and the restrictions on that freedom imposed by the Secrecy Act (*sekretesslagen*, 1980:100). The Security Police's handling of personal information is regulated by the Police Data Act (*polisdatalagen*, 1998:622, which came into force on 1 April 1999), the Police Data Ordinance (*polisdataförordningen*, 1999:81, which also came into force on 1 April 1999), the Personal Data Act (*personuppgiftslagen*, 1998:204) and the Personal Data Ordinance (*personuppgiftsförordningen*, 1998:1191).

A. Constitutional guarantees

40. Chapter 2, section 1(1), of the Instrument of Government ("the Constitution") guarantees the freedom to form opinions, the right to express them and the right to join others in the expression of such opinions. The freedoms and rights referred to in Chapter 2, section 1(1), may be restricted by law to the extent provided for in sections 13 to 16. Restrictions may only be imposed to achieve a purpose which is acceptable in a democratic society. A restriction may never exceed what is necessary having regard to its purpose, nor may it be so onerous as to constitute a threat to the free expression of opinion, which is one of the foundations of democracy. No restriction may be imposed solely on grounds of political, religious, cultural or other such opinions (Chapter 2, section 12).

41. According to Chapter 2, section 13, freedom of expression may be restricted, for instance, "having regard to the security of the Realm". However, the second paragraph of the latter provision states that "[i]n judging what restraints may be imposed by virtue of the preceding paragraph, particular regard shall be had to the importance of the widest possible freedom of expression and freedom of information in political, religious, professional, scientific and cultural matters". The term "security of the Realm" covers both external and internal security.

42. With regard to freedom of association, fewer limitations are provided for. It follows from Chapter 2, section 14, that it may be restricted "only in respect of organisations whose activities are of a military or quasi-military nature, or which involve the persecution of a population group of a particular race, skin colour or ethnic origin".

43. Chapter 2, section 3, provides that no entry regarding a citizen in a public register may be based, without his or her consent, exclusively on that person's political opinion. The prohibition is absolute.

44. Under Chapter 2, section 2, of the Freedom of the Press Ordinance, everyone is entitled to have access to official documents unless, within defined areas, such access is limited by law.

B. Security intelligence

45. The Security Police form part of the National Police Board (*Rikspolisstyrelsen*). The Security Police are engaged in four major fields of activity. Three of them – the upholding of the Constitution, counter-espionage and counterterrorism – fall under the common heading of security intelligence. The fourth area concerns security protection.

1. Legal basis for registration

46. The legal basis for the register kept by the Security Police before 1999 has been described in *Leander v. Sweden* (26 March 1987, §§ 19-22,

Series A no. 116). For the period thereafter the matter is governed by the 1999 Police Data Act and Police Data Ordinance. The Police Data Act is a *lex specialis* in relation to the 1998 Personal Data Act. The Security Police's own rules of procedure (*arbetsordning*), which are not public in their entirety, contain more detailed rules on the registration and use of personal information.

47. Section 5 of the Police Data Act (under the heading "Processing of sensitive personal data") provides:

> "Personal information may not be processed merely on the ground of what is known about the person's race or ethnic origin, political opinions, religious or philosophical conviction, membership of a trade union, health or sexual orientation.
>
> If personal information is processed on another ground, the information may be completed with such particulars as are mentioned in the first paragraph if it is strictly necessary for the purposes of the processing."

48. Section 32 reads:

> "The Security Police shall keep a register [*SÄPO-registret*] for the purposes of:
>
> 1. facilitating investigations undertaken in order to prevent and uncover crimes against national security;
>
> 2. facilitating investigations undertaken in order to combat terrorist offences under section 2 of the Act; or
>
> 3. providing a basis for security checks under the Security Protection Act [*säkerhetsskyddslagen*, 1996:627]. The Security Police are responsible [*personuppgiftsansvarig*] for the processing of personal data in the register."

49. Section 33 of the Act provides:

> "The Security Police's register may contain personal information only if:
>
> 1. The person concerned by the information is suspected of having engaged in or of intending to engage in criminal activity that entails a threat to national security or a terrorist offence;
>
> 2. The person concerned has undergone a security check under the Security Protection Act; or
>
> 3. Considering the purpose for which the register is kept, there are other special reasons therefor.
>
> The register shall indicate the grounds for data entry. The government may lay down further regulations on the type of data that may be entered (Act 2003:157)."

The scope of the expression "special reasons" in sub-paragraph 3 of section 33 of the Police Data Act is commented on in the preparatory work in respect of that legislation (Government Bill 1997/98:97, pp. 153-54 and pp. 177-78), where the following points are made in particular. In order to

enable the Security Police to perform the tasks assigned to them by the relevant legislation, it could in certain cases be deemed necessary to register persons also for reasons other than those laid down in sub-paragraphs 1 and 2 of section 33: for instance, persons who are connected with other persons registered under sub-paragraphs 1 and 2 of section 33; persons who could be the targets of threats; and persons who could be the object of recruitment attempts by foreign intelligence services. In order for the Security Police to be able to prevent and uncover crimes against national security, it was necessary to survey and identify potential threats and recruitment attempts. It should also be possible for the Security Police to identify links between persons who move to Sweden after participating in oppositional activities in their home countries. Moreover, it should be possible for the Security Police to register information about persons who have been smuggled into Sweden on assignment from foreign non-democratic regimes with the task of collecting information concerning fellow countrymen. There was a need to update information concerning such informers continuously. Also, information concerning contacts with foreign missions in Sweden was relevant in this context.

The Government stated that the fact that an individual's name had been included in the register did not necessarily mean that he or she was suspected of an offence or other incriminating activities. Other than the examples already mentioned above from the preparatory work, the Government gave the following illustrations:

– he or she is in contact with someone suspected of a crime;
– he or she is in contact with personnel from a foreign mission;
– he or she has attracted the attention of a foreign intelligence service or is used by such a service;
– he or she is active in a circle that has attracted the attention of a foreign intelligence service;
– he or she is used by an organisation whose activities are the subject of an investigation regarding threats to security;
– he or she is the referee of a foreign citizen seeking a visa;
– he or she has contacted the Security Police and provided information;
– he or she is contacted by the Security Police.

The Government stated that information in respect of the person in question may be needed in order to determine the interests of an entity (State, organisational or individual) constituting a threat to Swedish security, and the extent and development of that threat.

50. Section 34 of the Police Data Act provides:

> "The Security Police register may only contain:
>
> – information for identification;
>
> – information on the grounds for registration; and

– references to the files where information concerning the registered person can be found."

51. Under section 3 of the Personal Data Act, the treatment of personal information includes every operation or series of operations carried out with respect to personal information, whether automatic or manual. Examples of such treatment are the gathering, entry, collation, storage, processing, use, release and destruction of personal information. Personal information is defined by the same provision as all kinds of information that relate directly or indirectly to a physical, living person. The Personal Data Act applies to the processing of personal information that is wholly or partially automated. It also applies to all other processing of personal data if the information is or is intended to be part of a structured collection of personal information that can be accessed by means of a search or compilation according to certain criteria (section 5).

2. Registration and filing

52. Documents that contain information are collected in files. Depending on its content, a document may, when necessary, either be placed in a file on a certain individual – a personal file (*personakt*) – or in a so-called thematic file (*sakakt*). It may also be added to both kinds of files.

53. A thematic registration is done, and a thematic file opened, whenever there is a need to collect and compile documents systematically. The documents may concern a matter or a subject that the Security Police have a duty to supervise or cover, or on which the Security Police need to have access to relevant information for any other reason. A thematic file may be started in order to collect documents that concern the relations between States and organisations. It may also be started in order to collect a certain type of document, for instance a series of reports. It should be observed that thematic registration as such does not mean that names are entered into the Security Police's register, even though names may be found in the documents of a thematic file. Thus, a search for a person who has been mentioned in a thematic file cannot be done unless, for independent reasons, that person has also been registered in a personal file. Moreover, the name of a person who has been registered personally may occur in a thematic file but may still not show up in a search for the name in the latter file if, for instance, the name in the thematic file lacks relevance for the Security Police.

3. Correction and destruction of registered information

54. The Data Inspection Board (*Datainspektionen*) monitors compliance with the Personal Data Act (unlike the Records Board which supervises the Security Police's compliance with the Police Data Act). The Data Inspection Board is empowered to deal with individual complaints and, if it

finds that personal information is not processed in accordance with the Personal Data Act, it is required to call attention to the fact and request that the situation be corrected. If the situation remains unchanged, the Board has the power to prohibit, on pain of a fine (*vite*), the person responsible for the register from continuing to process the information in any other way than by storing it (section 45 of the Personal Data Act).

55. The Data Inspection Board may request a county administrative court to order the erasure of personal information that has been processed in an unlawful manner (section 47 of the Act).

4. Removal of registered information

56. Registered information in respect of an individual suspected of committing or of being liable to commit criminal activities that threaten national security or a terrorist offence, shall as a rule be removed no later than ten years after the last entry of information concerning that person was made (section 35 of the Police Data Act). The same applies to information that has been included in the register for other special reasons connected with the purpose of the register. The information may be kept for a longer period if justified by particular reasons. More detailed rules concerning the removal of information are to be found in the regulations and decisions issued by the National Archives (*Riksarkivet*) and in the Security Police's own rules of procedure. All documents removed by the Security Police are transferred to the National Archives.

C. Access to official documents

57. The limitations on access in this particular field before 1 April 1999 have been described in detail in *Leander* (cited above, §§ 41-43). With regard to access to information kept by the Security Police, absolute secrecy was thus the principal rule prior to 1 April 1999. The only exceptions made were for the benefit of researchers. From 1 July 1996 it was also possible to allow exemptions (*dispens*) if the government held the view that there were extraordinary reasons for an exemption to be made from the main rule of absolute secrecy.

58. The absolute secrecy of files kept exclusively by the Security Police was abolished by an amendment to Chapter 5, section 1(2), of the Secrecy Act, made at the same time as the Police Data Act came into force on 1 April 1999. According to the amended provision, information concerning the Security Police's intelligence activities referred to in section 3 of the Police Data Act, or that otherwise concerns the Security Police's activities for the prevention and investigation of crimes against national security, or to prevent terrorism, was to be kept secret. However, if it was evident that the information could be revealed without detriment to the aim of measures that had already been decided upon or that were anticipated, or without harm to

future activities, the information should be disclosed. When submitting the relevant bill to Parliament, the government stressed that the nature of the intelligence service was such that information could only be disclosed in special cases. They presumed that in other cases the fact that a person was not registered would also remain secret (Government Bill 1997/98:97, p. 68).

A fourth subsection was added to section 1 of Chapter 5 on 1 March 2003, under which a person may upon request be informed of whether or not he or she can be found in the Security Police's files as a consequence of registration in accordance with the Personnel Security Check Ordinance that was in force until 1 July 1996 or corresponding older regulations. However, the government was still of the view that there were in principle no reasons for the Security Police to reveal whether or not there was any information concerning an individual in their files and registers:

> "The Government acknowledge that it may appear unsatisfactory not to be given a clear answer from the Security Police as to whether an individual is registered in their files or not. There are, however, valid reasons for the Security Police not to disclose in certain cases whether a person appears in Security Police records. This point of view was also taken in the preparatory work on the Police Data Act (Government Bill 1997/98:97, p. 68), where it was stated that a person linked to criminal activities may have a strong interest in knowing whether the police have any information regarding him or her. In such a case, it could be very damaging for an investigation if it were revealed to the person in question either that he or she was of interest to the police or that he or she was not. It is therefore essential that the information whether a person appears [in the files] or not may be kept secret." (Government Bill 2001/02:191, pp. 90-91)

59. The Security Police apply the Secrecy Act directly. There are thus no internal regulations that deal with the issue of access to official documents since that would be in breach of the Secrecy Act. Under Chapter 5, section 1(2), of the Secrecy Act, there is a presumption of secrecy, meaning that whenever it is uncertain whether the disclosure of information in an official document is harmful or not, such information shall not be disclosed.

60. A request for access to official documents kept by the Security Police gives rise to a search to ascertain whether or not the person in question appears in the files. If there is no information, the person who has made the request is not informed thereof and the request is rejected. A few exceptions have been made from this practice in cases where the person concerned has died and the request has been made by his or her children (as in the second applicant's case). However, if information is found, the Security Police make an assessment of whether or not all or part of it can be disclosed. It is not indicated whether the disclosed information is all that exists in the files.

61. The Government have stated that it was standard practice for the Administrative Court of Appeal to go to the Security Police and take part of their files – if any – in every case that had been brought to it. The three

judges examined all the documents and made an assessment of every document that had not been released to the appellant. If the appellant did not appear in the register and files of the Security Police, the court obtained part of a computer print-out showing that the appellant did not appear in the documents kept by the Security Police.

D. Review bodies

1. The Records Board

62. The Records Board (*Registernämnden*) was established in 1996 and replaced the National Police Board (described in paragraphs 19 to 34 of the above-mentioned *Leander* judgment). It is entrusted with the task of determining whether information kept by the Security Police may be disclosed in security checks, to monitor the Security Police's registration and storage of information and their compliance with the Police Data Act, in particular section 5 (see section 1 of the Ordinance prescribing instructions for the Records Board – *förordningen med instruktion för Registernämnden*, 1996:730). In order to carry out its supervisory function, the Board is entitled to have access to information held by the Security Police (section 11). It presents an annual report to the government on its activities (section 6). The report is made public.

Under sections 2 and 13 of the Ordinance prescribing instructions for the Records Board, the Board consists of a maximum of eight members, including a chairperson and a vice-chairperson, all appointed by the government for a fixed term. The chairperson and the vice-chairperson have to be or to have been permanent judges. The remaining members include parliamentarians. The Records Board's independence is guaranteed by, *inter alia*, Chapter 11, section 7, of the Constitution, from which it follows that neither Parliament nor the government nor any other public authority may interfere with the manner in which the Board deals with a particular case.

2. The Data Inspection Board

63. Under section 1 of the Ordinance prescribing instructions for the Data Inspection Board (1998:1192), the Board's main task is to protect individuals from violations of their personal integrity through the processing of personal data. The Board is competent to receive complaints from individuals. Its independence is guaranteed, *inter alia*, by Chapter 11, section 7, of the Constitution.

64. In order to carry out its monitoring function, the Data Inspection Board is entitled to have access to the personal data that is being processed, to receive relevant additional information and documentation pertaining to the processing of personal data and to the safety measures in respect of the

processing and, moreover, to have access to the premises where the processing takes place (section 43 of the Personal Data Act).

The Board's powers in relation to the correction and erasure of registered data are summarised in paragraphs 55 and 56 above.

65. A personal data representative (*personuppgiftsombud*) has been appointed within the Security Police with the function of ensuring independently that the personal data controller processes personal data in a lawful and correct manner and in accordance with good practice, and of pointing out any shortcomings. If the representative has reason to suspect that the controller has contravened the provisions on the processing of personal data, and if the situation is not rectified as soon as is practicable after being pointed out, the representative shall notify the Data Inspection Board (section 38(1) and (2) of the Personal Data Act).

3. Other review bodies

66. The Security Police, the Records Board and the Data Inspection Board and their activities come under the supervision of the Parliamentary Ombudspersons and the Chancellor of Justice. Their functions and powers are described in *Leander* (cited above, §§ 36-39).

67. Unlike the Parliamentary Ombudspersons, the Chancellor of Justice may award compensation in response to a claim from an individual that a public authority has taken a wrongful decision or omitted to take a decision. This power of the Chancellor of Justice is laid down in the Ordinance concerning the administration of claims for damages against the State (*förordningen om handläggning av skadeståndsanspråk mot staten*, 1995:1301). The Chancellor may examine claims under several provisions of the Tort Liability Act (*skadeståndslagen*, 1972:207), notably Chapter 3, section 2, pursuant to which the State shall be liable to pay compensation for financial loss caused by a wrongful act or omission in connection with the exercise of public authority. Compensation for non-pecuniary damage may be awarded in connection with the infliction of personal injury or the commission of certain crimes, such as defamation (Chapter 5, section 1, and Chapter 1, section 3).

A decision by the Chancellor of Justice to reject a claim for damages in full or in part may not be appealed against. The individual may, however, institute civil proceedings against the State before a district court, with the possibility of appealing to a higher court. In the alternative, such proceedings may be instituted immediately without any previous decision by the Chancellor. Before the courts, the State is represented by the Chancellor.

68. Under section 48 of the Personal Data Act, a person responsible for a register shall pay compensation to a data subject for any damage or injury to personal integrity caused by the processing of personal data in breach of the Act.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

69. The relevant parts of Article 8 of the Convention read as follows:

> "1. Everyone has the right to respect for his private ... life ...
>
> 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 ... [or] for the prevention of disorder or crime ..."

A. Storage of the information that had been released to the applicants

70. Under Article 8 of the Convention, the applicants complained that the storage in the Security Police files of the information that had been released to them constituted unjustified interference with their right to respect for private life.

1. Applicability of Article 8

71. The Government questioned whether the information released to the applicants could be said to fall within the scope of the notion of private life for the purposes of Article 8 § 1. They stressed that the information that had been released to the first applicant did not concern her own activities but the activities of other persons, namely those responsible for the letter bombs that had been sent to her and others. The information kept on the other applicants that was subsequently released to them appeared to a large extent to have emanated from open sources, such as observations made in connection with their public activities (the second applicant's participation in a meeting abroad and the fifth applicant's participation in a demonstration in Stockholm). In addition, the bulk of the information was already in the public domain since it consisted of newspaper articles (the third, fourth and fifth applicants), radio programmes (the fifth applicant) or of decisions by public authorities (decision by the Parliamentary Ombudspersons with regard to the third applicant). None of them had alleged that the released information was false or incorrect.

72. The Court, having regard to the scope of the notion of "private life" as interpreted in its case-law (see, in particular, *Amann v. Switzerland* [GC], no. 27798/95, § 65, ECHR 2000-II, and *Rotaru v. Romania* [GC], no. 28341/95, § 43, ECHR 2000-V), finds that the information about the applicants that was stored on the Security Police register and was released to them clearly constituted data pertaining to their "private life". Indeed, this

embraces even those parts of the information that were public, since the information had been systematically collected and stored in files held by the authorities. Accordingly, Article 8 § 1 of the Convention is applicable to the impugned storage of the information in question.

2. Compliance with Article 8

(a) Whether there was interference

73. The Court further considers, and this has not been disputed, that it follows from its established case-law that the storage of the information in issue amounted to interference with the applicants' right to respect for private life as secured by Article 8 § 1 of the Convention (see *Leander*, cited above, § 48; *Kopp v. Switzerland*, 25 March 1998, § 53, *Reports of Judgments and Decisions* 1998-II; *Amann*, cited above, §§ 69 and 80; and *Rotaru*, cited above, § 46).

(b) Justification for the interference

(i) Whether the interference was in accordance with the law

74. The applicants did not deny that the contested storage of information had a legal basis in domestic law. However, they maintained that the relevant law lacked the requisite quality flowing from the autonomous meaning of the expression "in accordance with the law". In particular, they submitted that the terms of the relevant national provisions were not formulated with sufficient precision to enable them to foresee – even with the assistance of legal advice – the consequences of their own conduct. The ground of "special reasons" in sub-paragraph 3 of section 33 of the Police Data Act was excessively broad and could be applied to almost anybody. This had been amply illustrated by the instances of gathering and storage of information that had been released to them.

75. The Government submitted that not only did the impugned interference have a basis in domestic law but the law was also sufficiently accessible and foreseeable to meet the quality requirement under the Court's case-law.

76. The Court reiterates its settled case-law, according to which the expression "in accordance with the law" not only requires the impugned measure to have some basis in domestic law, but also refers to the quality of the law in question, requiring that it should be accessible to the person concerned and foreseeable as to its effects (see, among other authorities, *Rotaru*, cited above, § 52). The law must be compatible with the rule of law, which means that it must provide a measure of legal protection against arbitrary interference by public authorities with the rights safeguarded by paragraph 1 of Article 8. Especially where, as here, a power of the executive

is exercised in secret, the risks of arbitrariness are evident. Since the implementation in practice of measures of secret surveillance is not open to scrutiny by the individuals concerned or the public at large, it would be contrary to the rule of law for the legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate the scope of any such discretion conferred on the competent authorities and the manner of its exercise with sufficient clarity, having regard to the legitimate aim of the measure in question, to give the individual adequate protection against arbitrary interference (see *Malone v. the United Kingdom*, 2 August 1984, §§ 67-68, Series A no. 82, reiterated in *Amann*, cited above, § 56, and in *Rotaru*, cited above, § 55).

77. In this regard, the Court notes from the outset that the legal basis in Swedish law of the collection and storage of information on the secret police register, and the quality of that law prior to the amendments which came into force on 1 April 1999, were the subject of the Court's scrutiny in the above-cited *Leander* judgment (§§ 19-22). It concluded that such measures had a legal basis in national law and that the law in question was sufficiently accessible and foreseeable to satisfy the quality requirements flowing from the autonomous interpretation of the expression "in accordance with the law" (ibid., §§ 52-57). In the present instance, the parties have centred their pleadings on the situation after 1 April 1999. The Court will therefore not deal of its own motion with the period before that date and will limit its examination to the subsequent period.

78. In the first place, the Court is satisfied that the storage of the information in issue had a legal basis in sections 5, 32 and 33 of the 1998 Police Data Act.

79. Secondly, as to the question regarding the quality of the law, the Court notes that, as is made clear by the terms of section 33 of the Police Data Act, "[t]he Security Police's register may contain personal information *only*" (emphasis added) on any of the grounds set out in sub-paragraphs 1, 2 or 3. The Court considers that an issue may arise, but only in relation to the apparent broadness of the ground in sub-paragraph 3 of section 33: "Considering the purpose for which the register is kept, there are other special reasons therefor" (see paragraph 49 above). The Government stated that a person may be registered without his or her being incriminated in any way. Here the preparatory work gives some specific and clear examples: in particular, a person who is connected with another person who has been registered, a person who may be the target of a threat and a person who may be the object of recruitment by a foreign intelligence service (ibid.). The Government have also given examples of wider categories, for instance "a person in contact with someone suspected of a crime" (ibid.). It is clear that the Security Police enjoys a certain discretion in assessing who and what information should be registered and also if there are "special reasons" other than those mentioned in sub-paragraphs 1 and 2 of section 33 (a person

suspected of a crime threatening national security or a terrorist offence, or undergoing a security check).

However, the discretion afforded to the Security Police in determining what constitutes "special reasons" under sub-paragraph 3 of section 33 is not unfettered. Under the Swedish Constitution, no entry regarding a citizen may be made in a public register exclusively on the basis of that person's political opinion without his or her consent. A general prohibition of registration on the basis of political opinion is further set out in section 5 of the Police Data Act. The purpose of the register must be borne in mind where registration is made for "special reasons" under sub-paragraph 3 of section 33. Under section 32 of the Police Data Act, the purpose of storing information on the Security Police register must be to facilitate investigations undertaken to prevent and uncover crimes against national security or to combat terrorism. Further limitations follow from section 34 governing the manner of recording data in the Security Police register.

Against this background, the Court finds that the scope of the discretion conferred on the competent authorities and the manner of its exercise was indicated with sufficient clarity, having regard to the legitimate aim of the measure in question, to give the individual adequate protection against arbitrary interference.

80. Accordingly, the interference with the respective applicants' private lives was "in accordance with the law", within the meaning of Article 8.

(ii) Aim and necessity of the interference

81. The applicants stressed the absence of any concrete actions recorded by the Security Police that substantiated the alleged risk that any of them might be connected with terrorism, espionage or any other relevant crime.

82. The Government maintained that the interference pursued one or more legitimate aims: the prevention of crime, in so far as the first applicant's own safety was concerned by the bomb threats, and the interests of national security with regard to all the applicants. In each case the interference was moreover "necessary" for the achievement of the legitimate aim or aims pursued.

83. The Government submitted that they were at a loss to understand the reason why the first applicant should claim at all that the Security Police's registration and filing of information concerning threats against her were not in her best interests but, on the contrary, entailed a violation of her rights under the Convention. The information that had been released to the other four applicants was highly varied in nature. Most of it appeared to have been found in the public domain, such as the media. The Government were unaware of the origins of each and every piece of information, and therefore could not comment on that particular aspect. They noted, however, that from today's perspective the information seemed either fairly old or quite

harmless and that the interference was proportionate to the legitimate aim pursued, namely the protection of national security.

84. As to the second applicant, given the Cold War context at the time, it could not be deemed unreasonable for the Security Police to have kept themselves informed about a meeting in 1967 of left-wing sympathisers in Poland in which he may have taken part. He had not been the subject of personal data registration and the information about him had been carefully phrased (with the use of the word "probably").

85. The third and fourth applicants had since the 1970s been members of the KPML(r), a political party which advocated the use of violence in order to bring about a change in the existing social order. One of the Security Police's duties was to uphold the Constitution, namely, by preventing and uncovering threats against the nation's internal security. It was evident that persons who were members of political parties like the KPML(r) would attract the attention of the Security Police.

86. The case of the fifth applicant should also be seen against the background of the Cold War, and he too seemed to have advocated violence as a means of bringing about changes in society. According to one of the entries in the records released to him, he was said to have stated that violence could be resorted to in order to stage demonstrations and to achieve their goals.

(iii) The Court's assessment

87. The Court accepts that the storage of the information in question pursued legitimate aims, namely the prevention of disorder or crime, in the case of the first applicant, and the protection of national security, in that of the remainder of the applicants.

88. While the Court recognises that intelligence services may legitimately exist in a democratic society, it reiterates that powers of secret surveillance of citizens are tolerable under the Convention only in so far as strictly necessary for safeguarding the democratic institutions (see *Klass and Others v. Germany*, 6 September 1978, § 42, Series A no. 28, and *Rotaru*, cited above, § 47). Such interference must be supported by relevant and sufficient reasons and must be proportionate to the legitimate aim or aims pursued. In this connection, the Court considers that the national authorities enjoy a margin of appreciation, the scope of which will depend not only on the nature of the legitimate aim pursued but also on the particular nature of the interference involved. In the instant case, the interest of the respondent State in protecting its national security and combating terrorism must be balanced against the seriousness of the interference with the respective applicants' right to respect for private life. Here again the Court will limit its examination to the period from 1999 onwards.

89. In so far as the first applicant is concerned, the Court finds no reason to doubt that the reasons for keeping on record the information relating to

bomb threats in 1990 against her and certain other personalities were relevant and sufficient as regards the aim of preventing disorder or crime. The measure was at least in part motivated by the interest in protecting her security; there can be no question of any disproportionate interference with her right to respect for private life thus being entailed. The Court has received no particulars about the precise contents of the documents released to the applicant on 13 December 2002 and will not therefore examine that matter.

90. However, as to the information released to the second applicant (namely, his participation in a political meeting in Warsaw in 1967), the Court, bearing in mind the nature and age of the information, does not find that its continued storage is supported by reasons which are relevant and sufficient as regards the protection of national security.

Similarly, the storage of the information released to the fifth applicant could for the most part hardly be deemed to correspond to any actual relevant national security interests for the respondent State. The continued storage of the information to the effect that he, in 1969, had allegedly advocated violent resistance to police control during demonstrations was supported by reasons that, although relevant, could not be deemed sufficient thirty years later.

Therefore, the Court finds that the continued storage of the information released to the second and fifth applicants entailed a disproportionate interference with their right to respect for private life.

91. The information released to the third and fourth applicants raises more complex issues in that it related to their membership of the KPML(r), a political party which, the Government stressed, advocated the use of violence and breaches of the law in order to bring about a change in the existing social order. In support of their argument, the Government submitted a copy of the KPML(r) party programme, as adopted on 2-4 January 1993, and referred in particular to its Clauses 4, 22, 23 and 28 (see paragraph 38 above).

The Court observes that the relevant clauses of the KPML(r) party programme rather boldly advocate establishing the domination of one social class over another by disregarding existing laws and regulations. However, the programme contains no statements amounting to an immediate and unequivocal call for the use of violence as a means of achieving political ends. Clause 23, for instance, which contains the most explicit statements on the matter, is more nuanced in this respect and does not propose violence as either a primary or an inevitable means in all circumstances. Nonetheless, it affirms the principle of armed opposition.

However, the Court reiterates that "the constitution and programme of a political party cannot be taken into account as the sole criterion for determining its objectives and intentions; the contents of the programme must be compared with the actions of the party's leaders and the positions

they defend" (see, *mutatis mutandis*, *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, § 101, ECHR 2003-II; *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 46, *Reports* 1998-I; *Socialist Party and Others v. Turkey*, 25 May 1998, § 50, *Reports* 1998-III; and *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], no. 23885/94, § 45, ECHR 1999-VIII). This approach, which the Court has adopted in assessing the necessity under Article 11 § 2 of the Convention of the dissolution of a political party, is also pertinent for assessing the necessity in the interests of national security under Article 8 § 2 of collecting and storing information on a secret police register about the leaders and members of a political party.

In this case, the KPML(r) party programme was the only evidence relied on by the Government. Beyond that, they did not point to any specific circumstance indicating that the impugned programme clauses were reflected in actions or statements by the party's leaders or members and constituted an actual or even potential threat to national security when the information was released in 1999, almost thirty years after the party had come into existence. Therefore, the reasons for the continued storage of the information about the third and fourth applicants, although relevant, may not be considered sufficient for the purposes of the necessity test to be applied under Article 8 § 2 of the Convention. Thus, the continued storage of the information released to the respective applicants in 1999 amounted to a disproportionate interference with their right to respect for private life.

92. In sum, the Court concludes that the continued storage of the information that had been released was necessary with respect to the first applicant, but not for any of the remaining applicants. Accordingly, the Court finds that there has been no violation of Article 8 of the Convention with regard to the first applicant, but that there has been a violation of this provision with regard to each of the other applicants.

B. The refusals to advise the applicants of the full extent to which information was kept about them on the Security Police register

1. The parties' submissions

(a) The applicants

93. The applicants further submitted that the respective refusals to grant full access to all information kept about them on the Security Police register amounted to unjustified interference with their right to respect for private life under Article 8 of the Convention.

94. In the applicants' view, the interference was not "in accordance with the law" as the relevant national law failed to fulfil the requirements as to quality under the Convention. It had not been foreseeable what kind of information might be stored or what considerations governed the decisions by the Security Police or the courts on each applicant's request for access to information kept on file about them.

95. Nor was the interference "necessary in a democratic society". The applicants pointed to the absence of any specific information recorded by the Security Police that could substantiate any assumption of a risk that the applicants might be connected with terrorism, espionage or other relevant criminal activities. Moreover, the lack of access to declassified data kept mainly for purely historical or political reasons could not be viewed as strictly necessary.

In this connection, the applicants argued that the relevant law did not offer adequate safeguards against abuse. They stressed that the Records Board, a body established in 1996, had failed to review their files following their request for access. The Board had no power to order the destruction of files or the suppression or rectification of information therein. Nor was it empowered to award compensation. The Data Inspection Board had never carried out a substantial review of the files kept by the Security Police. The Parliamentary Ombudsperson could not grant the applicants access to their files and was not empowered to correct false or irrelevant information therein. The Chancellor of Justice was the government's representative and was therefore not independent.

(b) The Government

96. The Government acknowledged that, at some point in time, the Swedish Security Police had kept some information about the applicants but, referring to their above-mentioned arguments, questioned whether the applicants had shown that there was at least a reasonable likelihood that the Security Police retained personal information about them and that there had consequently been interference with their private life.

97. However, were the Court to conclude that there was interference with the applicants' rights under Article 8 § 1 in this context, the Government submitted that it was justified under Article 8 § 2: it was "in accordance with the law", pursued a legitimate aim and was "necessary in a democratic society" in order to achieve that aim.

98. As to the issue of necessity, the Government argued that under Swedish law there were adequate safeguards against abuse.

(i) The discretion afforded to the Security Police was subject to limitations set out in the more general Personal Data Act, which dealt with the processing of personal information wherever it took place, and the more specific Police Data Act, which in positive terms obliged the Security Police

to keep a register, specified its aims and laid down the conditions under which personal information could be included in it.

(ii) Both the Constitution and the Police Data Act expressly provided that certain sensitive information could only be registered in exceptional circumstances, that is to say when it was "strictly necessary". Under no circumstances could a person be registered by the Security Police simply because of his or her political views or affiliations.

(iii) The Data Inspection Board was an important safeguard, considering its mandate with respect to the overall treatment of personal information. It was empowered to take various measures to protect personal integrity, such as prohibiting all processing of personal data (other than merely storing it) pending the rectification of illegalities. It could also institute judicial proceedings in order to have registered information erased.

(iv) The Records Board, another important safeguard, had two functions. It monitored the Security Police's filing and storage of information and their compliance with the Police Data Act. It also determined whether information held by the Security Police could be disclosed in security checks.

(v) The Parliamentary Ombudspersons supervised the application of laws and other regulations not only by the Security Police themselves but also by the bodies monitoring them (the Data Inspection Board and the Records Board). The Ombudspersons were empowered to carry out inspections and other investigations, institute criminal proceedings against public officials and report officials for disciplinary action. It was to be recalled that the third applicant's trade union had in fact lodged a complaint with the Parliamentary Ombudspersons, arguing that there had been a breach of the Personnel Security Check Ordinance in connection with the security check carried out with regard to the third applicant, and that the Ombudspersons had voiced some criticism about the manner in which the matter had been handled.

(vi) The Chancellor of Justice had a role similar to that of the Parliamentary Ombudspersons, was competent to report public servants for disciplinary action, to institute criminal proceedings against them and to award compensation.

In addition, damages could be claimed under the Tort Liability Act in direct judicial proceedings. The Personal Data Act moreover contained a separate ground for damages that was of relevance in the context of the present case.

The Government argued that, in view of the absence of any evidence or indication that the system was not functioning as required by domestic law, the framework of safeguards achieved a compromise between the requirements of protecting a democratic society and the rights of the individual which was compatible with the provisions of the Convention.

2. The Court's assessment

99. The Court, bearing in mind its assessment in paragraphs 72 and 73 above, finds it established that the impugned refusal to advise the applicants of the full extent to which information was being kept about them on the Security Police register amounted to interference with their right to respect for private life.

100. The refusal had a legal basis in domestic law, namely Chapter 5, section 1(2), of the Secrecy Act. As to the quality of the law, the Court refers to its findings in paragraphs 79 and 80 above, as well as paragraphs 57 to 61, describing the conditions of a person's access to information about him or her on the Security Police register. The Court finds no reason to doubt that the interference was "in accordance with the law" within the meaning of Article 8 § 2.

101. Moreover, the refusal pursued one or more legitimate aims – reference is made to paragraph 87 above.

102. The Court notes that, according to the Convention case-law, a refusal of full access to a national secret police register is necessary where the State may legitimately fear that the provision of such information may jeopardise the efficacy of a secret surveillance system designed to protect national security and to combat terrorism (see *Klass and Others*, cited above, § 58, and *Leander*, cited above, § 66). In this case the national administrative and judicial authorities involved all held that full access would jeopardise the purpose of the system. The Court does not find any ground on which it could arrive at a different conclusion.

103. Moreover, having regard to the Convention case-law (see *Klass and Others*, cited above, § 50; *Leander*, cited above, § 60; *Esbester v. the United Kingdom*, no. 18601/91, Commission decision of 2 April 1993, unreported; and *Christie v. the United Kingdom*, no. 21482/93, Commission decision of 27 June 1994, Decisions and Reports 78-A) and referring to its findings regarding the quality of the law (see paragraphs 79 and 80 above) and the various guarantees that existed under national law (see paragraphs 52 to 68), the Court finds it established that the applicable safeguards met the requirements of Article 8 § 2.

104. In the light of the foregoing, the Court finds that the respondent State, having regard to the wide margin of appreciation available to it, was entitled to consider that the interests of national security and the fight against terrorism prevailed over the interests of the applicants in being advised of the full extent to which information was kept about them on the Security Police register.

Accordingly, the Court finds that there has been no violation of Article 8 of the Convention under this head.

II. ALLEGED VIOLATIONS OF ARTICLES 10 AND 11 OF THE CONVENTION

105. The applicants complained that, in so far as the storage of secret information was used as a means of surveillance of political dissidents, as was particularly noticeable with regard to the first and fourth applicants, it entailed a violation of their rights under Article 10 of the Convention. The relevant parts of that Article provide:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security ... [or] for the prevention of disorder or crime ..."

They further complained that, for each of them, membership of a political party had been a central factor in the decision to file secret information on them. This state of affairs constituted an unjustified interference with their rights under Article 11, the relevant parts of which provide:

> "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or ... for the prevention of disorder or crime ..."

106. The Government argued that no separate issues arose under either Article 10 or Article 11 in the circumstances of the present case in so far as the first, second, fourth and fifth applicants were concerned. They had not been the subject of personnel security checks. The information on them held by the Security Police was apparently never consulted by third parties. In fact, it seemed only to have been released to the applicants themselves following their own requests for access. Furthermore, their suspicions that the Security Police were holding information on them – suspicions that were confirmed when information was indeed released to them – appeared not to have had any impact on their opportunities to exercise their rights under either Article 10 or Article 11. They had at all times been free to hold and express their political or other opinions. It was not supported by the facts of the present case that their opportunities to enjoy freedom of association had in any way been impaired. Therefore, the Government maintained that there had been no interference with their rights under Articles 10 and 11 and requested the Court to declare their complaints under these provisions inadmissible as being manifestly ill-founded.

107. The Court, for its part, considers that the applicants' complaints under Articles 10 and 11, as submitted, relate essentially to the adverse effects on their political freedoms caused by the storage of information on them in the Security Police register. However, the applicants have not adduced specific information enabling it to assess how such registration in the concrete circumstances could have hindered the exercise of their rights under Articles 10 and 11. Nevertheless, the Court considers that the storage of personal data related to political opinion, affiliations and activities that is deemed unjustified for the purposes of Article 8 § 2 *ipso facto* constitutes an unjustified interference with the rights protected by Articles 10 and 11. Having regard to its findings above under Article 8 of the Convention with regard to the storage of information, the Court finds that there has been no violation of these provisions with regard to the first applicant, but that there have been violations of Articles 10 and 11 of the Convention with regard to the other applicants.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

108. The applicants further complained that no effective remedy existed under Swedish law with respect to the above violations, 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."

A. The parties' submissions

1. The applicants

109. Apart from arguing that the relevant Swedish law on data registration was vague and that the safeguards against improper data entry were inadequate, the applicants submitted, in particular, that Swedish law did not provide for a judicial remedy enabling aggrieved parties to have the files destroyed.

110. The applicants further alleged that the standardised reasoning the national courts gave when rejecting their request for full access to their respective files had been arbitrary and even stigmatising.

The first applicant claimed that the Administrative Court of Appeal did not look into the Security Police's files on her before adopting its judgment.

111. The applicants maintained that during its thirty years of existence the Data Inspection Board had never performed a substantial review of the files of the Security Police. While the Records Board had been a success, it had not been involved in any of the instances in issue under the Convention.

The Parliamentary Ombudsperson was not empowered to decide on whether the applicants should be granted a right of access to their files or to correct irrelevant or false information on them. The Chancellor of Justice was not independent of the executive.

2. The Government

112. The Government disputed that the applicants had an arguable claim for the purposes of Article 13 and contended that this provision was therefore not applicable. In any event, the requirements of this provision had been complied with.

113. In so far as the applicants could be deemed to have arguable claims when it came to the correction and erasure of information held by the Security Police, the Government referred to the available remedies. The applicants could have complained – but had failed to do so – to the Data Inspection Board in order to seek appropriate measures.

114. The Government further disputed the first applicant's contention that the administrative courts had failed to look into the Security Police's files. It was evident from the case file of the Administrative Court of Appeal that the court had visited the premises of the Security Police on 3 February 2000 in order to obtain some of the documents.

115. In so far as the applicants had also complained of a lack of opportunity to seek compensation for any grievances resulting from the storage of information on them by the Security Police, they had had the opportunity to (1) lodge complaints with the Chancellor of Justice, (2) institute judicial proceedings under the Tort Liability Act, or (3) claim – also within the framework of judicial proceedings – damages under the Personal Data Act. None of the applicants appeared to have made use of any of those remedies.

B. The Court's assessment

116. The Court sees no reason to doubt that the applicants' complaints under Article 8 of the Convention about the storage of information and refusal to advise them of the full extent to which information on them was being kept may, in accordance with its consistent case-law (see, for example, *Rotaru*, cited above, § 67), be regarded as "arguable" grievances attracting the application of Article 13. They were therefore entitled to an effective domestic remedy within the meaning of this provision.

117. Article 13 guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. It therefore requires the provision of a domestic remedy allowing the "competent national authority" both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although

Contracting States are afforded some discretion as to the manner in which they conform to their obligation under this provision. The remedy must be "effective" in practice as well as in law (ibid., § 67).

The "authority" referred to in Article 13 may not necessarily in all instances be a judicial authority in the strict sense. Nevertheless, the powers and procedural guarantees an authority possesses are relevant in determining whether the remedy is effective. Furthermore, where secret surveillance is concerned, objective supervisory machinery may be sufficient as long as the measures remain secret. It is only once the measures have been divulged that legal remedies must become available to the individual (ibid., § 69).

118. Turning to the present case, the Court observes that the Parliamentary Ombudsperson and the Chancellor of Justice have competence to receive individual complaints and have a duty to investigate them in order to ensure that the relevant laws have been properly applied. By tradition, their opinions command great respect in Swedish society and are usually followed. However, in the above-cited *Leander* judgment (§ 82), the Court found that the main weakness in the control afforded by these officials is that, apart from their competence to institute criminal proceedings and disciplinary proceedings, they lack the power to render a legally binding decision. In addition, they exercise general supervision and do not have specific responsibility for inquiries into secret surveillance or into the entry and storage of information on the Security Police register. As it transpires from the aforementioned judgment, the Court found neither remedy, when considered on its own, to be effective within the meaning of Article 13 of the Convention (ibid., § 84).

119. In the meantime, a number of steps have been taken to improve the remedies, notably enabling the Chancellor of Justice to award compensation, with the possibility of judicial appeal against the dismissal of a compensation claim, and the establishment of the Records Board, replacing the former National Police Board. The Government further referred to the Data Inspection Board.

Moreover, it should be noted that, with the abolition of the absolute secrecy rule under former Chapter 5, section 1(2), of the Secrecy Act (when it is deemed evident that information could be revealed without harming the purposes of the register), a decision by the Security Police whether to advise a person of information kept about him or her on their register may form the subject of an appeal to the county administrative court and the Supreme Administrative Court. In practice, the former will go and consult the Security Police register and appraise for itself the contents of files before determining an appeal against a refusal by the Security Police to provide such information. For the reasons set out below, it is not necessary here to resolve the disagreement between the first applicant and the Government as to the scope of the Administrative Court of Appeal's review in her case.

In the circumstances, the Court finds no cause for criticising the similarities in the reasoning of the Administrative Court of Appeal in the applicants' cases.

120. However, the Court notes that the Records Board, the body specifically empowered to monitor on a day-to-day basis the Security Police's entry and storage of information and compliance with the Police Data Act, has no competence to order the destruction of files or the erasure or rectification of information kept in the files.

It appears that wider powers in this respect are vested in the Data Inspection Board, which may examine complaints by individuals. Where it finds that data is being processed unlawfully, it can order the processor, on pain of a fine, to stop processing the information other than for storage. The Board is not itself empowered to order the erasure of unlawfully stored information, but can make an application for such a measure to the county administrative court. However, no information has been furnished to shed light on the effectiveness of the Data Inspection Board in practice. It has therefore not been shown that this remedy is effective.

121. What is more, in so far as the applicants complained about the compatibility with Articles 8, 10 and 11 of the storage on the register of the information that had been released to them, they had no direct access to any legal remedy as regards the erasure of the information in question. In the view of the Court, these shortcomings are not consistent with the requirements of effectiveness in Article 13 (see *Rotaru*, cited above, § 71, and *Klass and Others*, cited above, § 71) and are not offset by any possibilities for the applicants to seek compensation (see paragraphs 67 and 68 above).

122. In the light of the above, the Court does not find that the applicable remedies, whether considered on their own or in the aggregate, can be said to satisfy the requirements of Article 13 of the Convention.

Accordingly, the Court concludes that there has been a violation of this provision.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

123. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

124. The applicants each sought 400,000 Swedish kronor (SEK) (approximately 42,970 euros (EUR)), exclusive of value-added tax (VAT), in compensation for non-pecuniary damage, arguing that they should be awarded the same level of compensation as was offered to Mr Leander following the revelations as to what information had been kept about him on the secret police register and subsequent to the delivery of the Court's judgment in his case.

125. The Government stressed that the offer to Mr Leander had been made on an *ex gratia* basis under a special agreement reached on 25 November 1997 between him and them. In their view, the grant of compensation to Mr Leander could not serve as a model for any award to be made in this case. The Government submitted that the applicants had not substantiated their claim and had not shown any causal link between the alleged violation of the Convention and any non-pecuniary damage. In any event, the injury which may have been sustained by the applicants was not of such a serious nature as to justify a pecuniary award in this case. In the Government's view, the finding of a violation would in itself constitute sufficient just satisfaction.

126. The Court agrees with the Government that the settlement they reached with Mr Leander cannot serve as a model for an award in the present case. However, the Court considers that each of the applicants must have suffered anxiety and distress as a result of the violation or violations of the Convention found in his or her case that cannot be compensated solely by the Court's findings. Accordingly, having regard to the nature of the violations and the particular circumstances pertaining to each applicant, the Court awards under this head EUR 3,000 to the first applicant, EUR 7,000 each to the second and fifth applicants and EUR 5,000 each to the third and fourth applicants.

B. Costs and expenses

127. The applicants sought, firstly, the reimbursement of their legal costs and expenses, in an amount totalling SEK 289,000 (approximately EUR 31,000), in respect of their lawyer's work on the case (115 hours and 35 minutes, at SEK 2,500 per hour).

Secondly, the applicants' lawyer sought certain sums in reimbursement of the cost of his work in connection with a "first session" with the third applicant and a number of other persons.

128. The Government maintained that costs and expenses relating to other cases were not relevant and should not be taken into account in any award to be made in this case. As to the amount claimed with respect to the present case, the Government did not question the number of hours

indicated but considered the hourly rate charged to be excessive. SEK 1,286 (inclusive of VAT) was the hourly rate currently applied under the Swedish legal aid system. In view of the special character of the case, the Government could accept a higher rate, not exceeding SEK 1,800. Accordingly, should the Court find a violation, they would be prepared to pay a total of SEK 208,000 in respect of legal costs (approximately EUR 22,000).

129. The Court will consider the above claims in the light of the criteria laid down in its case-law, namely whether the costs and expenses were actually and necessarily incurred in order to prevent or obtain redress for the matter found to constitute a violation of the Convention and are reasonable as to quantum.

Accordingly, the Court dismisses the applicants' second costs claim. As to the first claim, the Court is not convinced that the hourly rate and the number of hours were justified. Deciding on an equitable basis, it awards the applicants, jointly, EUR 20,000 under this head.

C. Default interest

130. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 8 of the Convention in respect of the second, third, fourth and fifth applicants, but not of the first applicant;

2. *Holds* that there has been a violation of Articles 10 and 11 of the Convention in respect of the second, third, fourth and fifth applicants, but not of the first applicant;

3. *Holds* that there has been a violation of Article 13 of the Convention in respect of each of the applicants;

4. *Holds*

   (a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

      (i) in respect of non-pecuniary damage, EUR 3,000 (three thousand euros) to the first applicant; EUR 7,000 (seven thousand euros)

each to the second and fifth applicants; and EUR 5,000 (five thousand euros) each to the third and fourth applicants;

(ii) EUR 20,000 (twenty thousand euros) to the applicants jointly in respect of costs and expenses;

(iii) any tax that may be chargeable on the above amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 6 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Jean-Paul Costa
President