

of the court in special circumstances where publicity would prejudice the interests of justice. A

“2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

“3. Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; (b) to have adequate time and facilities for the preparation of his defence; (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.” B C

While the guarantee of a fair trial under article 6(1) applies to both criminal and civil proceedings article 6 prescribes in paragraphs 2 and 3 additional protections applicable only to criminal proceedings. It is also well established in European jurisprudence that “the contracting states have greater latitude when dealing with civil cases concerning civil rights and obligations than they have when dealing with criminal cases”: *Dombo Beheer BV v The Netherlands* (1993) 18 EHRR 213, 229, para 32. D

IV *The Clingham case*

8 In late February 2000, the Kensington and Chelsea Royal London Borough Council received a report by a housing trust about the behaviour of the defendant, then aged 16, who lived on an estate within the borough. After detailed investigations the borough resolved to apply to the magistrates’ court for an anti-social behaviour order. The complaint was supported by witness statements containing some first hand evidence of the defendant’s behaviour. The application was, however, primarily based on hearsay evidence contained in records of complaints received by the trust and in crime reports compiled by the police. The latter contained information relating to a wide range of behaviour, from allegations of verbal abuse to serious criminal activities including assault, burglary, criminal damage and drug dealing dating from April 1998 to December 2000. The allegations revealed a high level of serious and persistent anti-social behaviour. The material from the records of the trust and the police fell into three categories: (i) anonymous complaints where the source was never known; (ii) complaints where the source was known but was not disclosed; (iii) computerised reports made by police officers in the course of their duties, where the source of the complaint was either unknown or not disclosed. The borough served its supporting material on the defendant. In substance the material in its cumulative effect was, subject to any answer by the defendant, logically probative of the statutory requirements under section 1. The statements and exhibits were not, however, accompanied by a hearsay notice under the Magistrates’ Courts (Hearsay Evidence in Civil Proceedings) Rules 1999 (SI 1999/681). E F G H

9 Pursuant to an order by the judge a hearsay notice was served on the defendant. The defendant challenged the validity of the hearsay notice on