well have involved criminal conduct. A formal accusation is made, and the court to which it is made has to reach a decision as to whether or not the allegation has been made out. The situation can be distinguished from that where a sex offender order is sought under section 2 of the Crime and Disorder Act 1998, as it is a precondition for the making of the application that the defendant is already a sex offender as defined in section 3(1) of the Act. It can also be distinguished from that where a confiscation order is sought under the Drug Trafficking Offences Act 1986, as it is a precondition for the making of an application for such an order that the person against whom the order is sought has been convicted of a drug trafficking offence as defined in the Act. A previous conviction for the acts which are said to have amounted to anti-social behaviour is not required for the purposes of section 1 of the Crime and Disorder Act 1998. For the defendants it was contended that these features of the proceedings showed that they were directed at the world at large, rather than a pre-defined or limited class of persons, and that offences which were of this character were apt to be regarded as involving a criminal charge within the meaning of article 6.

70 I do not think that the fact that no previous criminal conviction is required before an application for an anti-social behaviour order can be made under section 1 of the Crime and Disorder Act 1998 has the significance which the defendants seek to attach to it. A distinction is drawn in the jurisprudence of the Strasbourg court between charges which are addressed to a pre-defined or limited class of persons, such as those who are serving in the armed forces or are serving sentences of imprisonment as in *Engel v The Netherlands (No 1)* 1 EHRR 647 and *McFeeley v United Kingdom* (1980) 3 EHRR 161 or those who take part in proceedings before a court as in *Ravnsborg v Sweden* 18 EHRR 38, on the one hand and charges which are directed to the world at large on the other, as in *Bendenoun v France* (1994) 18 EHRR 54 which was concerned with a provision in the tax code applicable to all citizens. The distinction which is drawn here is between proceedings which are disciplinary in character and those which are criminal. Where a limited group of persons possessing a special status is involved the conclusion is more readily drawn that the proceedings are disciplinary. But that is not a distinction which falls to be drawn in this case. The question is whether the person against whom an anti-behaviour order is being sought is "charged" with an offence at all. There are several indications that this is not so.

71 The conduct which requires to be demonstrated is not necessarily conduct which would be capable of being treated as criminal. It has to be shown that the defendant has acted in a manner that caused or was likely to cause harassment, alarm or distress. But in order to prove that an offence under section 4A(1) of the Public Order Act 1986 was committed by him it would be necessary to go further and prove that he intended to cause these consequences. In order to prove that an offence was committed under section 1 of the Protection from Harassment Act 1997 it would be necessary to prove that he was engaged in a course of conduct which in fact amounted to harassment and that he knew or ought to have known that his conduct amounted to harassment.

72 Furthermore the decision whether or not to make the order does not depend solely on proof of the defendant's conduct. The application may only be made if it appears to the local council or the chief constable that an