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

CASE OF KAFTAILOVA v. LATVIA

(Application no. 59643/00)

JUDGMENT
(Striking out)

STRASBOURG

7 December 2007

This judgment is final but may be subject to editorial revision.

In the case of Kaftailova v. Latvia,

The European Court of Human Rights, sitting as a Grand Chamber composed of:

Mr J.-P. COSTA, *President,*
Sir Nicolas BRATZA,
Mr B.M. ZUPANČIČ,
Mr P. LORENZEN,
Mr K. JUNGWIERT,
Mr K. TRAJA,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Mr J. BORREGO BORREGO,
Mrs A. GYULUMYAN,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON,
Mr J. ŠIKUTA,
Mr M. VILLIGER,
Mrs I. BERRO-LEFÈVRE,
Mr G. MALINVERNI, *judges,*
Mrs J. BRIEDE, ad hoc *judge,*

and Mr M. O'BOYLE, *Deputy Registrar*,

Having deliberated in private on 27 June 2007 and on 28 November 2007,

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

PROCEDURE

1. The case originated in an application (no. 59643/00) against the Republic of Latvia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a stateless person of Georgian origin, Mrs Natella Kaftailova ("the applicant"), on 10 April 2000.

2. The applicant was represented before the Court by Mr William Bowring, a barrister and university professor, of the European Human Rights Advocacy Centre (London). The Latvian Government ("the Government") were represented by their Agent, Mrs Inga Reine.

3. The applicant alleged, in particular, that in refusing to regularise her stay in Latvia the Latvian authorities had infringed her rights under Article 8 of the Convention.

4. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). On 1 November 2001 the Court

changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1). 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. As the seat of the judge elected in respect of Latvia was vacant, the President of the Chamber invited the Government on 27 July 2004 to indicate whether they wished to appoint to sit as judge either another elected judge or an *ad hoc* judge who possessed the qualifications required by Article 21 § 1 of the Convention. By letter of 15 September 2004 the Government appointed Mrs J. Briede as *ad hoc* judge (Article 27 § 2 of the Convention and Rule 29 § 1).

6. By a decision of 21 October 2004 the Chamber declared the application admissible.

7. Neither party filed additional written observations on the merits (Rule 59 § 1 of the Rules of Court). However, by letter of 3 February 2005, the Government informed the Court of further developments in the case and requested that the application be struck out of the Court's list of cases in accordance with Article 37 § 1 (b) of the Convention. On 20 April 2005 the applicant submitted her observations on that letter.

8. On 22 June 2006 a Chamber of the First Section, composed of Mr C.L. Rozakis, *President*, Mrs F. Tulkens, Mrs N. Vajić, Mr A. Kovler, Mr D. Spielmann and Mr S.E. Jebens, *judges*, Mrs J. Briede, ad hoc *judge*, and of Mr S. Nielsen, *Section Registrar*, delivered a judgment in which it held as follows: by five votes to two, that the applicant could claim to be a "victim" for the purposes of Article 34 of the Convention and that the Government's objection of inadmissibility should therefore be dismissed; and by five votes to two, that there had been a violation of Article 8 of the Convention. As the applicant had not submitted a claim for just satisfaction within the time allowed, the Chamber did not make any award under that head. The partly concurring opinion of Mr Spielmann joined by Mr Kovler, and the dissenting opinions of Mrs Vajić and Mrs Briede, were annexed to the Chamber judgment.

9. On 22 September 2006 the Government requested that the case be referred to the Grand Chamber under Article 43 of the Convention. On 23 October 2006 a panel of the Grand Chamber granted the request.

10. The composition of the Grand Chamber was determined according to the provisions of Article 27 §§ 2 and 3 of the Convention and Rule 24 of the Rules of Court.

11. The President of the Court having decided that no hearing on the merits was required (Rule 59 § 3 *in fine*), both parties submitted further written observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

12. The applicant was born in 1958 in Georgia and has lived in Riga (Latvia) since 1984. She was a Soviet national until 1991 and now has no nationality.

A. Background to the case and initial regularisation of the applicant's situation

13. In 1982 the applicant, who was living in Russia at the time, married a Soviet civil servant employed by the USSR Ministry of the Interior. In 1984 the couple had a daughter, born in Russia. In the same year the applicant and her family settled in Latvian territory.

14. In 1987 the applicant's husband was granted the right, in a professional capacity, to rent a room in a "duty residence" in Riga. In July 1988 he exchanged the accommodation he had previously been renting in Kazan (Russia) for the right to rent a State-owned flat in Riga. He and his family moved in straight away.

15. On 16 March 1990 the applicant cancelled her formal registration of residence (known at the time as *прописка* in Russian and *pieraksts* or *dzīvesvietas reģistrācija* in Latvian) in Volzhsk (Russia). On 16 April 1990 the applicant's husband registered her, without her knowledge or consent, as resident at the family's new address in Riga. In August 1990 he registered his own residence at that address.

16. In the meantime, in May 1990, the applicant lodged a complaint with the relevant local authority concerning her residence registration, arguing that her husband had registered her residence unlawfully without informing her. Consequently, on 15 June 1990, her name was removed from the register in question. Her minor daughter, however, continued to be registered at her father's address until October 1994.

17. In October 1990 the applicant and her husband divorced.

18. In August 1991 Latvia regained full independence. In December 1991 the Soviet Union, the State of which the applicant had hitherto been a national, ceased to exist. The applicant therefore became stateless.

19. By a final judgment of 3 February 1993 the Riga City Vidzeme District Court granted the applicant the right to rent the room obtained by her former husband in a "duty residence" in 1987. Shortly afterwards, still in February 1993, the applicant requested the Interior Ministry's Nationality and Immigration Department (*Iekšlietu ministrijas Pilsonības un imigrācijas departaments* – "the Department") to enter her name in the register of residents (*Iedzīvotāju reģistrs*) as a permanent resident of Latvia.

In her request, however, she gave the address at which her ex-husband had unlawfully registered her rather than the address in Riga at which she then lived. The Government explained that this had been a case of mistaken interpretation of the law on the register of residents, one which had had far-reaching consequences, having led to the loss of the applicant's legal status in Latvia.

20. The Department granted the applicant's request. In March 1993 her daughter obtained the same registration as her mother. However, by a decision of 21 July 1993, the Department cancelled the applicant's registration on the ground that the stamp in her passport was false. The file was immediately forwarded to the Kurzeme district prosecutor who, in a decision of 17 January 1994, decided not to institute criminal proceedings against the applicant. The prosecutor found that the registration stamp was authentic, but had been placed in the passport by the authorities in breach of the relevant regulations. The prosecutor concluded that, although the applicant's registration of residence was not valid, she could not be charged with forgery or use of forged documents.

21. On 15 February 1994 the Department removed the applicant's name from the register of residents and cancelled her personal identification code (*personas kods*). On 21 September 1994 the same action was taken in respect of the applicant's minor daughter.

22. On 30 November 1994 the Civil Division of the Supreme Court allowed a third-party appeal by the Prosecutor General's Office and quashed the final judgment of 3 February 1993 concerning the applicant's right to rent the room she was living in. The case was therefore referred back to the Riga City Vidzeme District Court, which, in an order of 29 December 1999, decided "not to examine the case".

B. Proceedings concerning the applicant's situation in Latvia

23. On 9 January 1995 the Department served a deportation order (*izbraukšanas rīkojums*) on the applicant, ordering her to leave Latvia with her daughter by 15 January 1995. The Department had discovered that, on 1 July 1992, the decisive date laid down by the applicable Act, the applicant had not had an officially registered permanent residence in Latvia. Accordingly, she ought to have applied for a residence permit within one month of the date of entry into force of the Act, failing which an order would be issued for her deportation; the applicant, however, had omitted to do this.

24. Having lodged an administrative appeal with the head of the Department, without success, the applicant applied to the Riga City Vidzeme District Court seeking to have the order for her deportation set aside and to have her name re-entered in the register of residents.

25. By a judgment of 26 April 1995 the court of first instance rejected the application. The court found that, since the registration of the applicant's residence in Riga had never been valid, she was illegally resident in Latvia. The applicant lodged an appeal on points of law against this judgment with the Supreme Court. The latter, in a final judgment of 19 May 1995, dismissed the appeal on the same grounds as the lower court.

26. In March 1997 the applicant made a fresh application for a residence permit to the Department; the application was rejected.

27. Following the entry into force on 25 September 1998 of amendments to the Act on the Status of Former USSR Citizens without Latvian or other Citizenship ("the Non-Citizens Act"), the applicant requested the head of the Interior Ministry's Nationality and Migration Directorate (*Iekšlietu ministrijas Pilsonības un migrācijas lietu pārvalde* – "the Directorate"), which had succeeded the Department, to regularise her stay in accordance with the Non-Citizens Act and to grant her the specific status provided for by the Act. When her request was refused, she lodged a fresh application with the Riga City Central District Court. In her memorial she stressed in particular that she had been living in Latvia for sixteen years and that she and her daughter had no other country to move to.

28. In a judgment of 8 September 1999 the district court rejected the application. It held that the applicant did not satisfy the conditions laid down in section 1(1) of the Non-Citizens Act since, on 1 July 1992, she had not had a valid registration of residence in Latvia. Furthermore, on that date, she had been resident in Latvian territory for only eight years rather than the required ten years. With specific regard to whether the registration of the applicant's residence in Latvia was null and void, the court referred to the arguments and findings set out in the Supreme Court judgment of 19 May 1995, which had become final.

29. The applicant appealed against the judgment before the Riga Regional Court. In a judgment of 15 May 2000 the regional court also found against the applicant, endorsing in substance the reasoning of the court of first instance. The applicant then lodged an appeal on points of law with the Senate of the Supreme Court. In a final order of 10 July 2000 the Senate, sitting in camera, declared the appeal inadmissible for lack of arguable legal grounds.

30. Meanwhile, on 6 July 2000, the applicant made a third application for regularisation to the Directorate, requesting it to grant her "the right to reside legally in Latvia". Her application was rejected.

31. In August 2001 the head of the Directorate decided to reopen the file concerning the applicant's daughter, who was then seventeen. He noted in particular that, on 1 July 1992, she had been registered at her father's address as a "permanently resident non-citizen" of Latvia, and that she therefore fulfilled the requirements of section 1 of the Non-Citizens Act. Accordingly, in October 2001, the Directorate issued the applicant's

daughter with a passport based on the status of "permanently resident non-citizen", re-entered her name in the register of residents and gave her a new personal identification code.

32. By Decree no. 820 of the Cabinet of Ministers of 24 December 2003, the applicant's daughter became a naturalised Latvian citizen (paragraph 1.105 of the decree).

C. Developments after the application was declared admissible

33. On 7 January 2005 the Directorate sent a letter to the applicant which read as follows (underlining in the original):

> " ... The Directorate ... has taken note of the final decision of the European Court of Human Rights (First Section) ... on the admissibility of the application in the case of *Natella Kaftailova v. Latvia*.
>
> The Directorate has explored the options currently available under Latvian legislation which might make it possible to regularise your legal situation in Latvia; it therefore invites you to take this opportunity to have your legal status in Latvia determined and to obtain a residence permit.
>
> On 9 January 1995 a deportation order was served on you ..., requesting you to leave Latvian territory by 15 January 1995. The deportation order has not been executed, nor have any measures been taken with a view to its enforcement. Section 360(4) of the Administrative Procedure Act ... currently in force stipulates that '*an administrative act may not be executed if more than three years have elapsed since it became enforceable*'... In view of the fact that, under the previously existing rules, execution of the deportation order was not stayed, and that you did not comply with it, execution is no longer possible.
>
> The Status of Stateless Persons Act, in force prior to 2 March [2004], made no provision for granting stateless person status to persons illegally resident in Latvia. Accordingly, the Directorate did not invite you to submit the papers required to obtain that status.
>
> The *Stateless Persons Act* which entered into force on 2 March 2004 replaced the Status of Stateless Persons Act... The conditions for the granting of stateless person status laid down by the [new] Act differ from those contained in the [old] Act.
>
> Under Section 2(1) of the *Stateless Persons Act*, a person may be granted stateless person status ... if no other State has recognised him or her as a national in accordance with its own laws. Under section 3(1) of the Act, persons not covered by the Convention of 28 September 1954 relating to the Status of Stateless Persons cannot be recognised as stateless persons...
>
> In accordance with section 4(1) of the *Stateless Persons Act*, in order to be recognised as a stateless person, the individual concerned must submit to the Directorate:
>
> (1) a [written] application;

(2) an identity document;

(3) a document issued by a competent body in the foreign State, to be determined by the Directorate, certifying that the person concerned is not a national of that State and is not guaranteed nationality of that State, or a document certifying the impossibility of obtaining such a document.

In view of the fact that you were born in Georgia and are of Georgian ethnic origin and the fact that, prior to your arrival in Latvia, you had been living in Russia..., it is essential ... to ascertain that you are not recognised as a national of the Republic of Georgia or of the Russian Federation or guaranteed the right to nationality of those countries in accordance with their laws. Accordingly, to enable us to take a decision granting you stateless person status, you must provide [us] with documents issued by the competent bodies in the Republic of Georgia and the Russian Federation to the effect that you are not a national of those countries and that you are not guaranteed the right to such nationality, or with a document certifying the impossibility of obtaining such a document.

Under section 6(1) of the *Stateless Persons Act*, stateless persons must reside in Latvia in accordance with the rules laid down by the Immigration Act, that is to say, on the basis of a residence permit or, at least, a visa.

Having considered the circumstances of your case, we are prepared, once we have determined your legal status and obtained the necessary documentation ..., to address an opinion to the Minister of the Interior proposing that you be issued with a permanent residence permit, in accordance with section 24(2) of the Immigration Act..."

34. The Directorate then listed the documents to be submitted by the applicant to her local department and indicated the usual period of validity of each document. The letter went on as follows:

"Once you have been recognised as a stateless person and been issued with a residence permit ..., your personal data will be entered in the register of residents and you will receive a personal identification code.

In the Directorate's view, this is the only basis on which you can obtain a permanent residence permit, given the circumstances of your case... That being so, the Directorate, in addressing its opinion to the Minister of the Interior, will draw the Minister's attention to the fact that issuing you with a permanent residence permit would be compatible with the [principles] of a democratic society, while maintaining the fair balance to be struck between the restriction of individual rights and the benefits to society of that restriction. The aim is to ensure that you have the right to conduct your private and family life without hindrance.

The Directorate would draw your attention to the fact that no one can be recognised as a stateless person or obtain a residence permit on a unilateral basis. You must therefore express a personal interest by making an application to that effect. In the view of the Directorate, ... the solution outlined above corresponds to your interests, would remove the threat of deportation in the future and would enable you to exercise your right to private and family life without any great restrictions; moreover, in accordance with the *Nationality Act*, you could aspire to Latvian citizenship by naturalisation.

> In view of the above, we invite you to contact the Directorate and submit the necessary documents to it, so that ... your legal status can be determined and ... the Minister of the Interior can take a decision on the issuing of a permanent residence permit. ...”

At the end of the letter the Directorate gave the telephone numbers of the officials to whom the applicant should address any further queries concerning the regularisation of her status.

35. By Decree no. 75 of 2 February 2005, the Cabinet of Ministers instructed the Minister of the Interior to issue the applicant with a permanent residence permit “once the documents required to make such an application [had] been received” (Article 1 of the decree). At the same time the Minister of Foreign Affairs was instructed to have the Court's decision of 21 October 2004 on the admissibility of the present application translated into Latvian, and to have the translation published in the Official Gazette (Article 3).

36. It is clear from the applicant's explanations that she did not take the steps indicated by the Directorate and that she continues to reside illegally in Latvia.

II. RELEVANT DOMESTIC LAW

37. The relevant provisions of domestic law applicable at the material time are summarised in the *Sisojeva and Others v. Latvia* judgment ([GC], no. 60654/00, §§ 46-62, ECHR 2007-...).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

38. The applicant claimed to be the victim of a violation of Article 8 of the Convention, the relevant parts of which provide:

> “1. Everyone has the right to respect for his private and family 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, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

39. During the proceedings before the Chamber the Government had raised an objection, which they maintained before the Grand Chamber. They

submitted that, in view of the measures taken by the Latvian authorities to help the applicant regularise her stay in Latvia, the matter had been effectively resolved and the application should be struck out of the Court's list of cases in accordance with Article 37 § 1 (b) of the Convention. Article 37 § 1 reads:

> "The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> (a) the applicant does not intend to pursue his application; or
>
> (b) the matter has been resolved; or
>
> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

A. The Chamber judgment

40. In its judgment, the Chamber considered first of all that the objection raised by the Government was closely linked to the question whether the applicant had effectively lost her "victim" status within the meaning of Article 34 of the Convention. Accordingly, the Chamber decided to examine the Government's submissions under Articles 34 and 37 § 1 (b) taken together. In doing so, it based its arguments on the general principle, established by the Court's settled case-law, that a decision or measure favourable to the applicant is not sufficient to deprive him of his status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then provided redress for, the alleged breach of the Convention. With regard to the first of these conditions, the *acknowledgement* of a violation, the Chamber accepted that the Directorate's letter of 7 January 2005 and the Governmental decree of 2 February 2005, both of which made express reference to the Court's decision on the admissibility of the present application, could be regarded as implicit acknowledgement of the existence of an issue under Article 8 of the Convention. As to *redress*, on the other hand, it considered that the steps taken by the Latvian authorities had been insufficient. While the regularisation arrangements proposed by the Government would allow the applicant to live permanently and without hindrance in Latvia, that solution did not erase the long period of insecurity and legal uncertainty which she had undergone in Latvia. The exceptional length of that period – approximately eleven years at the time the Chamber judgment was delivered – distinguished it clearly from the periods in issue in many similar cases. In sum, the Chamber came to the conclusion that the authorities had not

afforded full redress for the violation alleged by the applicant, that the applicant could still claim to be a "victim" and that the matter had not been resolved. It therefore dismissed the Government's objection.

41. On the merits, the Chamber took the view that the prolonged refusal by the Latvian authorities to grant the applicant the right to reside in Latvia on a legal and permanent basis had amounted to interference with her "private life" within the meaning of Article 8 of the Convention. The Chamber went on to find that the interference had not been proportionate to the legitimate aim pursued and that there had therefore been a violation of Article 8 in the instant case.

B. The parties' observations

1. The Government

42. The Government referred in essence to the grounds of the judgment in *Sisojeva and Others* (cited above, §§ 89-102), to which they fully subscribed. In particular, they did not deny that the applicant had undergone a period of insecurity and legal uncertainty in Latvian territory. However, they considered that the measures taken against the applicant had been, to a large extent, the consequence of her own conduct. In any event, the applicant currently faced no real or imminent risk of deportation from Latvia. The most recent act liable to adversely affect her had been the deportation order served on her on 9 January 1995; however, under the terms of section 360(4) of the Administrative Procedure Act, "[a]n administrative act [could] not be executed if more than three years [had] elapsed since it became enforceable" (ibid., § 54). That decision had therefore ceased to be enforceable once and for all a long time before. Moreover, if the Directorate were to issue a new deportation order, it would be amenable to appeal before the administrative courts.

43. In any event, the Government were satisfied that the measure adopted by the Cabinet of Ministers on 2 February 2005 was sufficient to remedy the applicant's complaint. In that connection they stressed that, when the deportation order was served on Mrs Kaftailova in 1995, the latter had been living in Latvia for only eleven years, whereas the applicants in other similar cases against Latvia had been resident in the country for decades. Furthermore, on humanitarian grounds, it had been decided at the outset to issue the applicant with a permanent rather than just a temporary residence permit. The Government laid particular emphasis on the fact that the above-mentioned measure was still valid and the applicant could apply for the residence permit at any time. However, the process could not be conducted unilaterally; the applicant must actually report to the authorities and demonstrate in person her wish to obtain the permit. In sum, the Government considered that the matter giving rise to the present case had

been resolved and the application should be struck out of the Court's list of cases in accordance with Article 37 § 1 (b) of the Convention.

2. The applicant

44. The applicant disagreed with the Government's submissions. In her view, the differences between her case and that of *Sisojeva and Others*, cited above, were too great to allow the approach adopted by the Grand Chamber in the latter to be transposed directly to the present case. With regard first of all to the facts of the case, the applicant pointed out at the outset that the members of the Sisojev family had obtained two passports each and had registered addresses in both Russia and Latvia without informing the relevant authorities in Latvia, in breach of Latvian law (she referred to *Sisojeva and Others*, cited above, § 94). No such accusation could be levelled at the applicant, who had not committed any fraud and had simply been the victim of an error by the relevant authorities.

45. As to the regularisation arrangements proposed by the Latvian authorities, the applicant raised three objections. Firstly, she pointed out that the proposal in her case had been made belatedly, in February 2005, whereas the Sisojev family had received the first proposal aimed at regularising their stay in November 2003 (ibid., §§ 38 and 95). Secondly, the Government had made regularisation of the applicant's situation subject to a condition she could not possibly fulfil. Section 4(1), point 3 of the new Stateless Persons Act required any individual applying for that status to produce "a document issued by a competent body in the foreign State, to be determined by the Directorate, certifying that the person concerned [was] not a national of that State and [was] not guaranteed nationality of that State, or a document certifying the impossibility of obtaining such a document" (ibid., § 49). The instructions in question were, according to her, incomprehensible and no such document could be obtained in her case.

46. Lastly, the applicant said that the status of "stateless person", even if it were to be accompanied by a permanent residence permit, was not what she sought; her aim was restoration of the status she had had prior to 1994. In short, the applicant opposed the striking-out of the application.

C. The Court's assessment

47. Before the Chamber the Government submitted, among other arguments, that the applicant had lost her "victim" status. For its part, the Court does not consider it necessary to rule on whether at the time she lodged the application the applicant could claim to be a "victim" of a violation of Article 8 of the Convention, or even to determine whether she can claim that status now. In the light of events occurring since 7 January 2005, and more especially since 2 February 2005 (see paragraphs 33-36

above), the Court considers that there is no longer any justification for examining the merits of the case, for the reasons set out below.

48. The Court reiterates that, under Article 37 § 1 (b) of the Convention, it may "at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that ...the matter has been resolved...". To be able to conclude that this provision applies to the instant case, the Court must answer two questions in turn: firstly, it must ask whether the circumstances complained of directly by the applicant still obtain and, secondly, whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed (see *Pisano v. Italy* [GC] (striking out), no. 36732/97, § 42, 24 October 2002). In the present case, that entails first of all establishing whether the risk of the applicant's being deported persists; after that, the Court must consider whether the measures taken by the authorities constitute adequate redress in respect of the applicant's complaint (see *Sisojeva and Others*, cited above, § 97).

49. With reference to the first question, the Court observes that execution of the order for Mrs Kaftailova's deportation has long ceased to be possible and that, as matters stand, she therefore faces no real and imminent risk of being deported (see, *mutatis mutandis*, *Vijayanathan and Pusparajah v. France*, judgment of 27 August 1992, Series A no. 241-B, p. 87, §§ 46-47, and the Commission's opinion, p. 95, § 119). Next, the Court takes note of the Directorate's letter of 7 January 2005 explaining to the applicant that she could regularise her stay and outlining the procedure to be followed and, especially, of Decree no. 75 of 2 February 2005, in which the Cabinet of Ministers instructed the Minister of the Interior to issue the applicant with a permanent residence permit. If the applicant were to take the corresponding action she could remain in Latvia legally and permanently and, accordingly, lead a normal social life and maintain her relationship with her daughter.

50. The Court observes that the applicant has not yet taken the action indicated by the Directorate, despite the latter's express invitation to that effect. In her submissions to the Court, she stated that she did not have all the documents required in order to apply for a residence permit. In that connection the Court notes that, in its letter of 7 January 2005, the Directorate told the applicant that she could not obtain a permanent residence permit until she had been granted stateless person status under the relevant legislation (see paragraphs 33-34 above). The decree of 2 February 2005, however, simply instructed the Minister of the Interior to issue the applicant with a permanent residence permit "once the documents required ... [had] been received", without saying how this was to be achieved in practice (see paragraph 35 above). Nevertheless, the Court observes that to date the applicant has made no attempt, however small, to get in touch with the authorities and try to find a solution to whatever difficulties may arise.

Having regard to the case file as a whole as it currently stands, and in the light of the explanations provided by the Government, the Court sees no indication that the latter have acted in bad faith (see *Sisojeva and Others*, cited above, § 101).

51. The applicant submitted that granting her stateless person status would not be adequate as it was not what she sought. Assuming that the applicant is still required to apply for and obtain that status, the Court points out that neither Article 8 nor any other provision of the Convention can be construed as guaranteeing, as such, the right to a particular type of residence permit; the choice of permit is in principle a matter for the domestic authorities alone (see *Sisojeva and Others*, cited above, § 91, and the case-law referred to therein). In any event, the Court notes that the measures indicated by the Latvian Government would allow the applicant to remain in Latvia and to exercise freely in that country her right to respect for her private life, as guaranteed by Article 8 of the Convention and interpreted in the Court's case-law (see, *mutatis mutandis*, *Sisojeva and Others*, cited above, §§ 98 and 102).

52. In short, the material facts complained of by the applicant have ceased to exist. It therefore remains to be determined whether regularisation of her stay would be sufficient to redress the possible effects of the situation of which she complained to the Court.

53. In the instant case the Court acknowledges that, if not from the time the applicant's name was removed from the register of residents in February 1994, then at the latest from the time her appeal against the order for her deportation was finally dismissed in May 1995, the applicant experienced a lengthy period of insecurity and legal uncertainty in Latvia. That period lasted approximately ten or twelve years, depending on the date taken as the starting-point. Moreover, the Court observes that the expulsion of a stateless person may give rise to serious issues under Article 8 of the Convention. However, while regretting the fact that the Latvian authorities did not find an earlier solution to the matter, the Court does not consider that this fact on its own makes the measure suggested inadequate in view of the applicant's personal situation, as it appears that no attempt was made to execute the deportation order and the applicant was therefore effectively able to remain in Latvia throughout the period concerned. This reduces considerably the extent of the redress which needs to be afforded in the present case.

54. Consequently, and in the light of all the relevant circumstances of the case, the Court considers that the regularisation arrangements proposed to the applicant by the Latvian authorities constitute an adequate and sufficient remedy for her complaint under Article 8 of the Convention.

55. Having regard to all the above considerations, the Court concludes that both conditions for the application of Article 37 § 1 (b) of the Convention are met in the instant case. The matter giving rise to this complaint can therefore now be considered to be “resolved” within the

meaning of Article 37 § 1 (b). Finally, no particular reason relating to respect for human rights as defined in the Convention requires the Court to continue its examination of the application under Article 37 § 1 *in fine*.

Accordingly, the application should be struck out of the Court's list of cases.

II. APPLICATION OF RULE 43 § 4 OF THE RULES OF COURT

56. Rule 43 § 4 of the Rules of Court provides:

> "When an application has been struck out, the costs shall be at the discretion of the Court. ..."

57. The Court points out that, unlike Article 41 of the Convention, which comes into play only if the Court has previously found "that there has been a violation of the Convention or the Protocols thereto", Rule 43 § 4 allows the Court to make an award solely for costs and expenses (see *Sisojeva and Others*, cited above, § 132).

58. The applicant did not submit any claim for just satisfaction before the Chamber. However, she submitted a claim totalling 600 pounds sterling (GBP), or approximately 886 euros (EUR), for costs and expenses relating to the Grand Chamber proceedings. The amount claimed corresponds to six hours' work by her representative, Mr W. Bowring, at an hourly rate of GBP 100, but does not include value-added tax.

59. The Government challenged the accuracy of the amount claimed, arguing that the applicant's claim for costs and expenses did not meet the requirements laid down by the Court's case-law. The bill of costs submitted by Mr Bowring merely stated an overall amount without giving a detailed breakdown of the services provided. In any event, the Government were of the opinion that Mr Bowring's fees were excessive, as they were several times higher than the amounts laid down in the scale of fees approved by the panel of the Latvian Bar Association.

60. The Court reiterates that the general principles governing reimbursement of costs under Rule 43 § 4 are essentially the same as under Article 41 of the Convention. In other words, in order to be reimbursed, the costs must relate to the alleged violation or violations and be reasonable as to quantum. Furthermore, under Rule 60 § 2 of the Rules of Court, itemised particulars of any claim made under Article 41 of the Convention must be submitted, together with the relevant supporting documents or vouchers, failing which the Court may reject the claim in whole or in part. In addition, it is clear from the structure of Rule 43 § 4 that, when the Grand Chamber makes a decision on the award of expenses, it must do so with reference to the entire proceedings before the Court, including the stages prior to referral to the Grand Chamber (ibid., § 133).

61. In the instant case the Court acknowledges that the bill of costs submitted by Mr Bowring was very general and did not specify the exact nature of the legal services provided. However, in the light of the information furnished by the applicant, it considers that the amount claimed is in no way disproportionate to the complexity of the case and the other relevant factors. In the circumstances, the Court deems it reasonable to allow the claim and to award the applicant EUR 886 for costs and expenses. To this amount is to be added any tax that may be chargeable (see, *mutatis mutandis*, *Lavents v. Latvia*, no. 58442/00, § 154, 28 November 2002). As to default interest, the Court considers it appropriate that it 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 the matter giving rise to the present case has been resolved and *decides* to strike the application out of its list of cases;

2. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 886 (eight hundred and eighty-six euros) in respect of costs and expenses, plus any tax that may be chargeable;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

Done in English and in French, and notified in writing on 7 December 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE	Jean-Paul COSTA
Deputy Registrar	President