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

CASE OF SHEVANOVA v. LATVIA

(Application no. 58822/00)

JUDGMENT
(Striking out)

STRASBOURG

7 December 2007

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

In the case of Shevanova 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. 58822/00) 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 Russian national, Mrs Nina Shevanova ("the applicant"), on 28 June 2000.

2. The applicant was represented before the Court by Mr G. Kotovs, a lawyer and member of Riga Municipal Council. The Latvian Government ("the Government") were represented by their Agent, Mrs I. Reine.

3. The applicant alleged, in particular, that the decision of the Latvian authorities to deport her from Latvia constituted a violation of her right to respect for her private and family life 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. By a partial decision of 15 February 2001 the Chamber declared the application inadmissible with regard to the complaints of the applicant's son, Mr Jevgeņijs Ševanovs. By a decision of 28 February 2002 it declared the remainder of the application admissible.

6. Having been informed of the case by a letter of 13 March 2002, the Russian Government did not express any wish to intervene under Article 36 § 1 of the Convention.

7. The applicant and the Government each filed written observations on the merits (Rule 59 § 1).

8. As the seat of the judge elected in respect of Latvia was vacant, the President of the Chamber invited the Government on 19 November 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 20 December 2004 the Government appointed Mrs J. Briede as *ad hoc* judge (Article 27 § 2 of the Convention and Rule 29 § 1).

9. 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 25 April 2005 the applicant submitted her observations on that letter. On 13 May 2005 the Government submitted their observations in reply.

10. On 15 June 2006 a Chamber of the First Section, composed of Mr C.L. Rozakis, *President*, Mrs F. Tulkens, Mrs E. Steiner, Mr K. Hajiyev, 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 six votes to one, 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 six votes to one, that there had been a violation of Article 8 of the Convention. The Chamber also decided unanimously to award the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,000 for costs and expenses. The partly concurring opinion of Mr Spielmann and the dissenting opinion of Mrs Briede were annexed to the Chamber judgment.

11. On 15 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.

12. On 25 October 2006 the Deputy Registrar of the Court again gave notice of the application to the Russian Government to enable them to exercise their right to intervene as a third party before the Grand Chamber for the purposes of Article 36 § 1 of the Convention and Rule 44 of the

Rules of Court. On 26 December 2006 the Russian Government informed the Court that they did not wish to intervene in the case.

13. 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.

14. The President of the Court having decided that no hearing on the merits was required (Rule 59 § 3 *in fine*), the Government, but not the applicant, submitted further written observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Background to the case and proceedings concerning the applicant's deportation

15. The applicant was born in Russia in 1948. In 1970 she settled in Latvian territory for work-related reasons. Between 1973 and 1980 (the year of her divorce), she was married to a man resident in Latvia. In 1973 she gave birth to a son, Jevgeņijs Ševanovs, who has lived with her until the present day.

16. In 1981, having lost the Soviet passport issued to her in 1978, the applicant obtained a new passport. In 1989 she found the lost passport, but did not return it to the relevant authorities.

17. In August 1991 Latvia regained full independence. In December 1991 the Soviet Union ceased to exist as a State and the applicant accordingly became stateless. In August 1992 her name was entered in the register of residents (*Iedzīvotāju reģistrs*) as a permanent resident. Her son was subsequently granted the status of "permanently resident non-citizen" of Latvia.

18. In 1994 a Latvian bridge-building firm offered the applicant a job as a crane operator in Dagestan and Ingushetia, regions of the Caucasus bordering on Chechnya and belonging to the Russian Federation. In view of the difficulties caused by tighter supervision in these regions by the Russian authorities on account of the troubles in Chechnya, the firm advised her to obtain Russian nationality and a formal registration of residence in Russia before signing the employment contract. In May 1994 the applicant consulted a broker who put a false stamp in her first Soviet passport, the one which she had found but not disclosed to the authorities, stating that the

registration of her residence in Latvia had been cancelled (*pieraksts* or *dzīvesvietas reģistrācija* in Latvian).

19. In June 1994 the applicant was registered as being resident in Shumanovo in the Kursk region of Russia, at her brother's address. In August 1994 she obtained Russian nationality. In 1995 and 1996 she travelled to Russia, working there for two periods of 100 and 120 days respectively.

20. In March 1998 the applicant applied to the Interior Ministry's Nationality and Migration Directorate (*Iekšlietu ministrijas Pilsonības un migrācijas lietu pārvalde* – "the Directorate") for a passport based on the status of "permanently resident non-citizen". In accordance with the regulations in force, she submitted alongside the application the second Soviet passport issued to her in 1981. On examining the file, the Directorate discovered that she had registered a second residence in Russia and had completed certain formalities on the basis of the old passport which had been mislaid and found again. Accordingly, by decision of 9 April 1998, the Directorate removed the applicant's name from the register of residents. On the same day the head of the Directorate issued an order for the applicant's deportation (*izbraukšanas rīkojums*), requesting her to leave Latvia for Russia by 19 June 1998. The deportation order was accompanied by a prohibition on re-entering Latvia for five years. It was served on the applicant on 11 June 1998.

21. After appealing unsuccessfully against the deportation order to the head of the Directorate, the applicant lodged an application with the Riga City Central District Court seeking to have the order set aside. In her memorial she submitted that, as the false stamp in her passport had been put there without her knowledge and she had therefore been unaware of it, she should not have to bear the consequences. In addition, since the registration of her residence in Russia had been merely temporary, it could not affect her registration in Latvia. She further argued that there were no legislative or regulatory provisions in force prohibiting her from having addresses in two different countries. Accordingly, the applicant requested the court to set aside the order for her deportation and to instruct the Directorate to issue her with a permanent residence permit.

22. In a judgment of 3 December 1998 the court rejected the request, finding that the deportation order had been lawful and well-founded. As to the applicant's request that she be issued with a residence permit, the court declared that part of the application inadmissible on the ground that she had not applied for a permit to the relevant authorities, nor had she lodged an administrative appeal before applying to the courts.

23. On 13 July 1999 the Russian authorities cancelled the applicant's residence registration in Russia, at her request.

24. The applicant lodged an appeal with the Riga Regional Court against the judgment of 3 December 1998. In a judgment of 29 September 1999 the

Regional Court dismissed the appeal on the ground that, as the applicant had been illegally resident in Latvia since her return from Russia, her deportation was in accordance with the law. The Regional Court also upheld the district court's findings as to the inadmissibility of the request for a residence permit.

25. In a judgment of 28 December 1999 the Senate of the Supreme Court dismissed an appeal by the applicant on points of law, finding that the interference complained of had been lawful and proportionate. In particular, the Senate observed that, in the instant case, the applicant's right to have two addresses or places of residence in two different countries had not been in dispute; the order for her deportation had been based solely on the fact that she had been resident in Latvia without a residence permit.

26. With the delivery of the Senate's judgment the order for the applicant's deportation became enforceable.

27. In two letters sent on 21 January and 3 February 2000, the applicant and her son requested the head of the Directorate to rescind the deportation order and to issue the applicant with a permanent residence permit. In support of their request, they argued that they did not have family ties in any country other than Latvia and that the expulsion of the applicant from Latvian territory, where they had lived together for twenty-six years, would constitute a serious infringement of their right to respect for their family life. They made explicit reference in that regard to Article 8 § 1 of the Convention and to similar provisions of the Latvian Constitution.

28. By letters dated 28 January and 15 February 2000, the head of the Directorate refused this request and reminded the applicant that she was required to leave Latvia immediately or be forcibly expelled.

29. After attempting without success to challenge this refusal by means of an administrative appeal to the Interior Minister, Mrs Shevanova and her son lodged a fresh application with the Riga City Central District Court to have the deportation order set aside. By order of 3 March 2000 the court declared the application inadmissible. On 24 May 2000 the Riga Regional Court upheld the order. An appeal on points of law by the applicant and her son was dismissed by an order of the Senate of the Supreme Court dated 29 November 2000.

30. On 12 February 2001 the applicant was arrested by the immigration police (*Imigrācijas policija*) and placed in a detention centre for illegal immigrants. On 21 February 2001 officials of the Directorate served a forcible expulsion decision on her (*lēmums par piespiedu izraidīšanu no valsts*).

31. On 26 February 2001 the applicant was admitted to hospital with acute hypertension. Consequently, on 28 February 2001, the head of the Directorate stayed execution of the forcible expulsion decision and requested the immigration police to formally order the applicant's release

from the detention centre. The deportation order of 9 April 1998 was also suspended at the same time.

32. As execution of the forcible expulsion decision had been stayed indefinitely, the applicant continued to reside illegally in Latvia.

B. Developments subsequent to the admissibility decision

33. On 7 January 2005 the head of the Directorate wrote a letter to the Government's Agent in the following terms (underlining in the original):

> "... [T]he ... Directorate ... has received your letter concerning the application lodged by Nina Shevanova with the European Court of Human Rights ... and requesting [us] to consider the possibility of issuing her with a permanent residence permit ... under section 24(2) of the Immigration Act. The reason you cite for your request is the existence of a real risk that a violation of Article 8 of the Convention might be found in this case. However, if Nina Shevanova were to be granted a sufficiently secure legal status in Latvia, the Latvian Government would be justified in requesting the European Court to dismiss the application.
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> ...
>
> I would like first of all to draw your attention to the fact that section 24(3) of the Immigration Act does not apply to the circumstances of the *Shevanova* case. The Directorate has therefore explored other possible solutions.
>
> ...
>
> Regard being had ... to the relevant circumstances of the *Shevanova* case, and in particular the fact that Mrs Shevanova has lived and worked within Latvian territory for a long time – a fact which undoubtedly testifies to the existence of sufficiently strong private and social ties ... – the Directorate is prepared, once it has obtained the necessary documentation from Mrs Shevanova ..., to address an opinion to the Minister of the Interior proposing that she be issued with a temporary residence permit valid for five years, in accordance with section 23(3) of the Immigration Act...
>
> ...
>
> Under the terms of Council [of the European Union] Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, Member States are required to grant long-term resident status to third-country nationals who have resided legally and continuously within their territory for five years immediately prior to submission of the relevant application. Accordingly, on expiry of the period of validity of her temporary residence permit, Nina Shevanova would be entitled to apply for and obtain the status of permanent resident and to be issued with an EC residence permit. Remedying Mrs Shevanova's situation in this way would be sufficient to put an end to any possible violation of her rights under Article 8 of the Convention.
>
> With this aim in mind, the Directorate has already drawn up a letter inviting Mrs Shevanova to submit to it the documents required in order to apply for a residence permit. This letter will be sent to her in the next few days. It should be

pointed out that, in accordance with section 61 of Regulation no. 213 ... on residence permits, [the person concerned] in such cases must submit a letter from a legal entity attesting to the necessity ... of his or her remaining in the Republic of Latvia. The Directorate notes in that connection that Mrs Shevanova will in all likelihood be unable to produce such a document. In any event, a positive ... outcome to the case can be achieved only if Mrs Shevanova herself displays an interest in such a solution.

Should Mrs Shevanova herself fail to take steps towards implementing the solution proposed by the Latvian Government, [it should be borne in mind that] the European Court of Human Rights has already acknowledged that, where applicants knowingly decline to take the appropriate measures suggested by the authorities ..., they cannot claim to be victims of a violation of their right to respect for their private and family life... The reference to Article 8 of the Convention ..., made in Mrs Shevanova's request, would therefore be without foundation."

34. 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).

35. By letter of 24 February 2005 the Directorate explained to the applicant how she could regularise her stay by obtaining a permanent residence permit, and invited her to submit the documents required for that purpose under the relevant regulations. It is clear from the case file, however, that the applicant has to date not taken the steps indicated by the Directorate.

II. RELEVANT DOMESTIC LAW

36. 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

37. 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."

38. 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

39. 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, which contained a 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 Latvian territory. The exceptional length of that period – approximately seven 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.

40. On the merits, the Chamber took the view that the decision to remove the applicant from Latvia 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

41. 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 the consequence of her own unlawful and fraudulent conduct; accordingly, the ordeals she had undergone had resulted from her own actions. 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 forcible expulsion decision with which she had been served on 21 February 2001; 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 in February 2004. Moreover, if the Directorate were to issue a new deportation order, it would be amenable to appeal before the administrative courts.

42. In any event, the Government were satisfied that the measure adopted by the Cabinet of Ministers on 2 February 2005, notice of which had been given to the applicant on 24 February 2005, was sufficient to remedy her complaint. In that connection they stressed that, in view of the applicant's age and other humanitarian considerations, it had been decided at the outset to issue her 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 granted to her. 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.

43. The applicant did not submit any additional observations following referral of the case to the Grand Chamber. Before the Chamber, she stated that she did not have all the documents required in order to obtain a permanent residence permit; in particular, she said that she did not have any document attesting to the lawful nature of her income. She declared her willingness in principle to "agree to the Government's proposal", but solely on condition that the Government provided redress for the damage she had sustained as a result of the alleged violation and reimbursed the costs and expenses she had incurred in the proceedings before the Court.

C. The Court's assessment

44. Before the Chamber, the Government submitted, among other arguments, that the applicant had lost her status as "victim". 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 since 2 February 2005 (see paragraphs 33-35 above), the Court is of the view that there is no longer any justification for examining the merits of the case, for the reasons set out below.

45. 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).

46. As regards the first question, the Court notes that, as matters stand, the applicant does not face any real and imminent risk of being deported, as the forcible expulsion decision served on her on 21 February 2001 has ceased to be enforceable (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 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, and of the Directorate's letter of

24 February 2005 explaining to the applicant that she could regularise her stay and outlining the procedure to be followed. 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 son. In other words, the measures indicated by the Government would enable the applicant to remain in Latvia and to exercise freely in that country her right to respect for her private and family 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).

47. 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 observations to the Chamber, the applicant submitted that she did not have all the documents required in order to apply for a residence permit. However, the Court notes 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 (ibid., § 101).

48. 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.

49. In the instant case the Court acknowledges that, if not from the time the order for the applicant's deportation was adopted in April 1998, then at the latest from the time her appeal on points of law was finally dismissed in December 1999, the applicant experienced a lengthy period of insecurity and legal uncertainty in Latvia. What is more, she was arrested on 12 February 2001 and held in a detention centre for illegal immigrants until 28 February. Nevertheless, the Court observes that the measures taken by the Latvian authorities against the applicant were prompted by her own conduct: having found the Soviet passport she had mislaid eight years previously and which had been replaced by a new identity document, the applicant had omitted to return it to the relevant authorities. She had used her two passports to perform a number of fraudulent actions, having a false stamp placed in the first passport, which had been officially reported as no longer valid, and using that passport to obtain a residence registration in Russia and Russian citizenship. She had also concealed the fact of her Russian citizenship in her dealings with the immigration authorities, leading them to believe that her legal status remained unchanged. The Court observes in particular that, as a Russian citizen, the applicant could have regularised her stay in Latvia by applying for a residence permit, but omitted to do so. On the contrary, instead of taking this lawful approach she

chose to act in a patently fraudulent manner. Accordingly, the Court cannot but conclude that the ordeals complained of by the applicant resulted largely from her own actions (see, *mutatis mutandis*, *Sisojeva and Others*, cited above, § 94).

50. 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.

51. 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

52. 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. ..."

53. 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).

54. Before the Grand Chamber, the applicant did not lodge any specific claim for reimbursement of costs. Before the Chamber, however, she claimed 1,525.45 lati (LVL) (approximately 2,300 euros (EUR)) under that head. In its judgment, the Chamber granted the claim in part, awarding the applicant EUR 1,000 to cover all heads of costs taken together (see paragraph 89 of the Chamber judgment).

55. 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).

56. In the present case the Court observes that the applicant did not contest the amount awarded by the Chamber in respect of costs and expenses or submit further costs incurred subsequently. In the circumstances, the Court considers it reasonable to award her the sum of EUR 1,000 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 1,000 (one thousand 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