CHAPTER 6

A Half-Century of Statistics

We realize that readers will be tempted to skip this chapter, seeing statistics as the sleep-inducing science of gathering quantitative information on individuals, groups and sets of facts and seeking to extract meaning from them and make predictions for the future. But if you bear with us and read on, you may find that you will lose your fear of statistics, and that they provide you with a wealth of information available only to the initiated.

The Increase in Applications in the Last Ten Years

Figure 1 shows that the number of applications to be dealt with by the Court has increased significantly over the past decade. The figures before 1 November 1998 relate to the European Commission of Human Rights. In 2009 alone more applications were allocated to a judicial formation than in the first 40 years. How can we explain the increase of the last decade?

First, the number of countries against which applications can be lodged has doubled in the past 20 years. Eight of the ten countries with the highest number of applications pending against them became Contracting Parties to the Convention during this period. Second, people in the member States have gradually become aware of the Court's existence, and the popularity of the new single Court has contributed to the rise in the number of applications to be examined. Third, changes have also been made to working methods to speed up the examination of applications. Hence, the increase in 2002 can be explained by a change in working methods which meant that the sifting of applications took place to a large extent at the judicial rather than the pre-judicial stage.

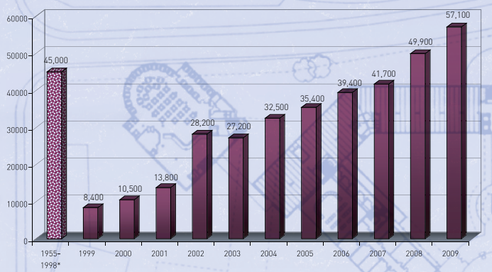


Fig.1: Applications allocated to a judicial formation 1955–2009.

**European Commission of Human Rights*

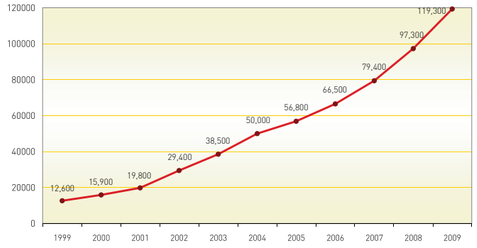


Fig. 2: Applications pending before a judicial formation 1999–2009.

Four States Account for More than Half the Court's Workload

There is a link between the number of applications allocated to a judicial formation and the number of cases pending before it. The number of cases pending is equal to the number allocated less the number disposed of. Despite efforts to boost productivity, the number of cases disposed of falls short of the number of applications allocated during the same period, resulting in a backlog of cases to be examined.

Figure 2 shows the overall increase, in the course of the last ten years, in the number of applications pending.

Figure 3 shows the number of cases pending before a judicial formation at the end of 2009 against countries with more than 3,000 applications pending. Four States, Russia, Turkey, Ukraine and Romania, account for over half of the Court's docket of roughly 120,000 cases.

Over 30,000 Applications Disposed of by Decision Each Year

Figure 4 highlights the increase in the number of applications finally disposed of by an inadmissibility or striking-out decision. Applications may be struck out of the list for a variety of reasons. The applicants may, among other things, withdraw their complaints, no longer reply to the letters sent to them or have reached a friendly settlement with the respondent government.

Where the Court considers that the friendly settlement proposed by the government is satisfactory and the government concedes that there has been a violation, the application may be struck out of the list following a unilateral declaration by the government.

In 2009 alone more applications were disposed of by a decision than during the 43 years when this task fell to the European Commission of Human Rights (see Fig. 4).

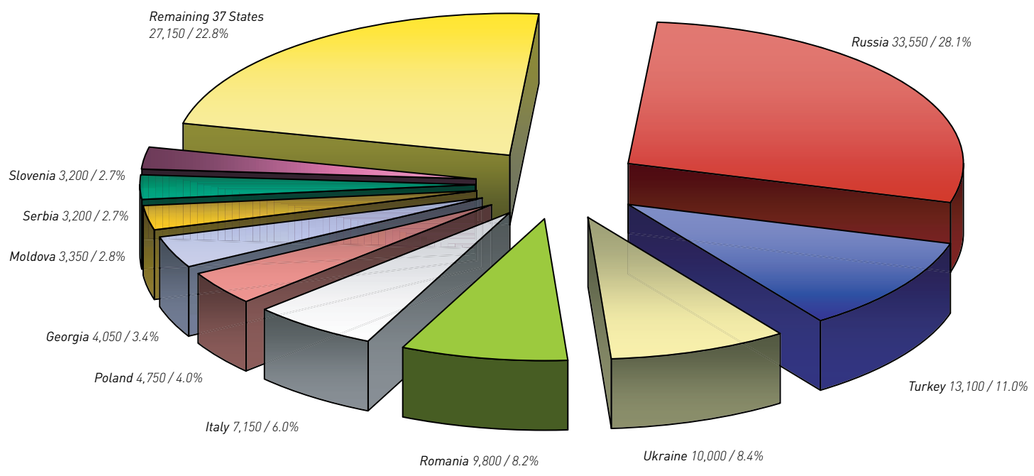


Fig. 3: Pending cases allocated to a judicial formation at 31 December 2009 – Principal respondent States.

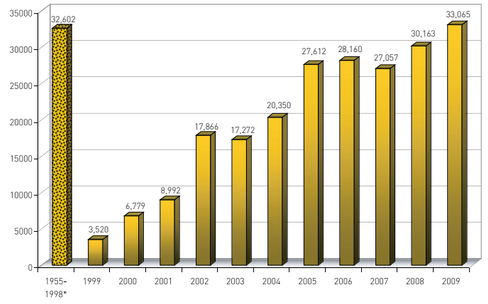


Fig. 4: Applications declared inadmissible or struck out by decision 1955–2009.

** European Commission of Human Rights*

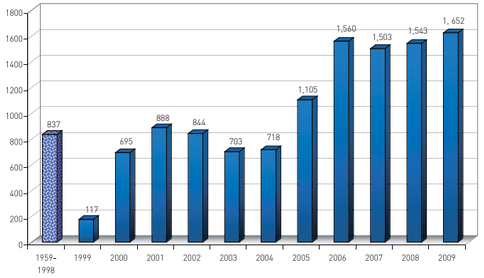


Fig. 5: Evolution of the number of judgments delivered 1959–2009.

Only 5 per cent of all Cases Result in a Judgment

During the past 50 years the overwhelming majority of applications, 95 per cent, were declared inadmissible or struck out, whereas only 5 per cent resulted in a judgment.

Why is the proportion of applications decided by judgment so low? One reason is that many people apply to the Court without really understanding what the Court can actually do for them or without complying with the necessary formalities, with the result that an inadmissibility decision is given.

There is another reason. Numerous striking-out decisions are adopted each year for various reasons and in particular, in recent years, because the parties have reached a friendly settlement.

Exponential Increase in the Number of Judgments

Figure 5 demonstrates the exponential increase in the number of judgments delivered. In 2001 alone the Court delivered more judgments than in its first 40 years of activity.

How do we explain this upsurge? There was one major reason why the Court adopted fewer judgments during the early decades of its operation, and that was the existence of the European Commission of Human Rights. The Commission screened all applications, with the result that in the early years only a handful of rulings were given by the Court. The judgments were all of great importance, and the Commission applied the Court's case-law in those cases that were of no particular interest.

Since 1999, however, the Court has to examine all applications, including those that are of no interest in terms of its case-law, such as repetitive cases. After the new Court began work in 1999 the number of judgments rose rapidly.

It should be pointed out that when we talk about the number of judgments we mean the number of 'documents' rather than the number of applications. Hence, if several applications are joined and dealt with in the same judgment, there will be just one document (one judgment), which disposes of several applications. For instance, in a single judgment delivered in 2008 the Court found a violation in respect of 121 applications against Ukraine.

In 2009 the greatest number of judgments concerned Turkey, Russia, Romania and Poland. These four States accounted for more than half of all judgments. On the other hand, half of the Contracting States had less than ten judgments against them during the year.

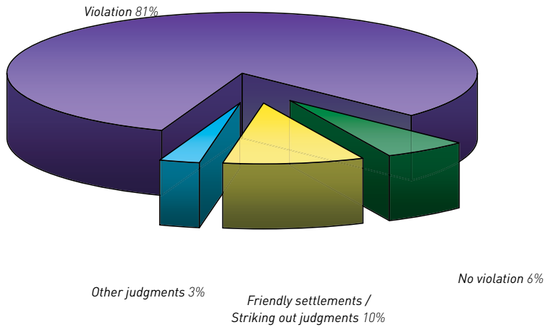
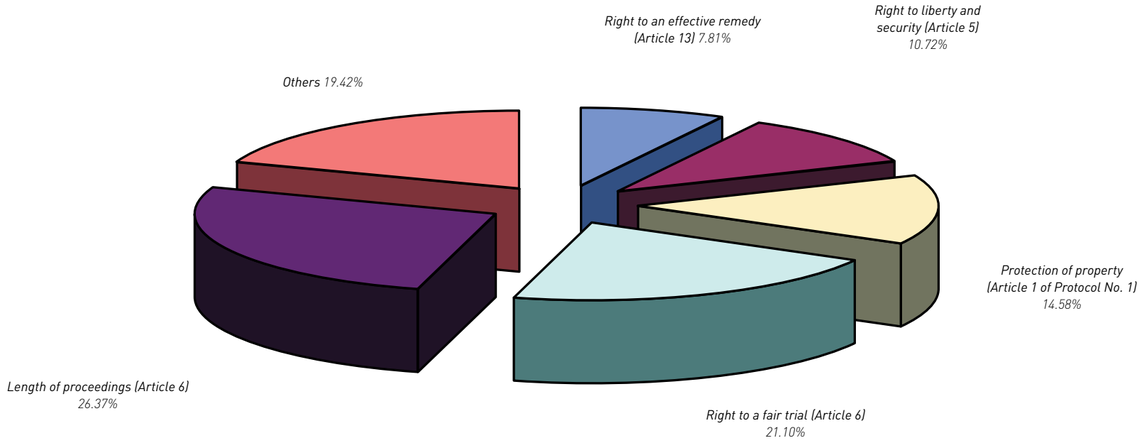


Fig. 6: Types of judgment 1959–2009.

Fig. 7: Violations by subject-matter 1959–2009.



Most Judgments will Find One or More Violations

Figure 6 highlights the large proportion of the Court's judgments in which a violation is found. Why is the proportion so high? First, because applications in which there has clearly been no violation are often rejected by an inadmissibility decision, and second, because the increase in the number of striking-out and friendly settlement decisions has an impact on the number of judgments of this type.

Violations by Subject-matter

As shown in Figure 7, almost 50 per cent of the violations found in the course of half a century concerned two aspects of Article 6 (the right to court proceedings within a reasonable time and the right to a fair trial). Violations of Article 1 of Protocol No. 1 (the right to protection of property) and Article 5 (the right to liberty and security of person) and Article 13 (effective remedy) of the Convention were also among the front-runners. These high percentages may be explained by the number of repetitive cases, which typically disclose a systemic problem in one or more States.

Figure 8 provides a detailed overview of the violations found in respect of each State since the Court began operating.

The Court's Ever-increasing Workload

The statistics are clear: despite the efforts undertaken to boost productivity, the Court cannot cope with its current workload. It would need considerably more resources in order to handle all the applications.

Fifty years of statistics could have generated 50 questions – far too many for an article aimed at inspiring people to delve into the Court's statistics. If the answers given have prompted anyone to learn even more, I will have succeeded in my task of sharing my interest in the Court's facts and figures with you. In order to keep abreast of the statistics, which are updated each month, visit the Court's website (www.echr.coe.int) and click on Reports.

Paola Tonarelli-Lacore
Head of the Case Management and Working Methods Division in the Registry of the Court

Fig. 8: Violations by Article and respondent State 1959–2009.

1959–2009	Total number of judgments	Judgments finding at least one violation	Judgments finding no violation	Friendly settlements / Striking out judgments	Other judgments*	Lack of effective investigation	Inhuman or degrading treatment	Prohibition of torture	Lack of effective investigation	Inhuman or degrading treatment	Prohibition of torture	Right to liberty and security	Right to liberty and security	Right to a fair trial	Length of proceedings	No punishment without law	Freedom of movement and liberty	Right to respect for private and family life	Freedom of movement	Freedom of expression	Freedom of assembly and association	Freedom of expression	Right to marry	Right to an effective remedy	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Other Articles of the Convention and Protocols No. 1, 4, 6, 7 and 12
	Total	Total	Total	Total	Total	**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	
Albania	**20**	18	1		1				2			1	18	2		1					6		9				1
Andorra	**4**	2		1	1								1									1						
Armenia	**20**	19	1						4				12					1	6				2		1		7
Austria	**268**	199	33	23	13			1	4			10	77	72		14	1	32	1		8	17	3			4	
Azerbaijan	**26**	22		2	2		1	1	2	2			9	2				1	5		3		5		1		1
Belgium	**158**	109	19	16	14				4	1		14	42	55		9		3			6	9	1				1
Bosnia and Herzegovina	**13**	13							1			2	7			1					1	1	7				1
Bulgaria	**294**	274	9	4	7	7	9		33	13		205	41	110		22	4	5	8		72	4	35		1		7
Croatia	**170**	133	8	26	3	1			5	2			45	72		8					23	1	11			1	
Cyprus	**57**	47	4	3	3				2			1	8	34	1	5		1			8	2	4		1		1
Czech Republic	**147**	133	4	8	2							17	40	76		12		1	1		12	2	7				
Denmark	**34**	13	9	11	1							1	1	8		1		1	1		2		1				
Estonia	**21**	18	2	1					2			7	4	4	4						3						
Finland	**134**	103	20	9	2				1			1	35	48		16		7			10		2			1	
France	**773**	576	103	62	32	3	2	1	11		1	41	230	278	3	25		19	2		26	8	23				4
Georgia	**35**	28	6	1					10	5		11	9	5		2	1	1			4	1	3		1		1
Germany	**157**	99	41	9	8				1			15	14	54	1	14		3	1		5	11	1				
Greece	**557**	488	14	20	35	4	3		13	3		20	106	320		5	8	8	5		83	6	61		2		
Hungary	**190**	179	4	6	1				1	2		6	5	156	1	1		5	2		3	1					2
Iceland	**11**	8		3								1	4					1	1				1				
Ireland	**23**	13	5	1	4							2	5	5		4		1			3	1					
Italy	**2023**	1556	48	351	68	1	3	1	13	1		27	229	1095	2	128		4	3		76	2	291	1	15		21
Latvia	**41**	34	4	3					5			22	8	6	1	15	3	2	1		2	1			3		5
Liechtenstein	**4**	4										1	1	1				1			1						
Lithuania	**57**	45	6	6		1	1		3			16	10	16		12						3	5				
Luxembourg	**29**	24	2	3			1						8	13		3		2	1		3	1	1				
Malta	**27**	22	2		3							7	5	5		1		1				2	5				
Moldova	**168**	158	1	2	7			7	28	12		46	90	10		7	3	16	6		27		70		1		9
Monaco	**1**	1										1															
Montenegro	**1**	1																					1				
Netherlands	**124**	71	27	15	11		3	1	7			21	21	8		14		4			1	3	1				
Norway	**27**	20	7									1	9	2		3		5						1			
Poland	**767**	674	46	40	7	2	2		12	5		237	58	360		71		13	1		18	2	18				3
Portugal	**187**	123	5	56	3							2	16	71		3		9			1	1	26				
Romania	**648**	584	18	23	23	1	6	1	26	20		45	304	62	1	35		9	2		8	22	373		1		9
Russia	**862**	815	28	13	6	115	122	18	193	34		265	475	112		34	4	16	6		178	2	386	1	2	2	66
San Marino	**11**	8		2	1								7	2			1						1				
Serbia	**40**	37	2		1							4	12	16		7		4			14		10				
Slovakia	**208**	178	5	21	4	1	1		1			15	17	137		11		5			15	1	7				
Slovenia	**227**	217	7	3			2		2	1		2	2	209		2					199						
Spain	**78**	50	24	2	2				1	1		3	24	11	2	6		2				1					1
Sweden	**89**	43	20	23	3	1			1			2	25	11		6		2	1		2	1	5				
Switzerland	**91**	63	21	5	2		1					11	22	6		11	1	11		1	1	3					
The former Yugoslav Republic of Macedonia	**63**	58	3	2						4		3	11	40					1		4		4				
Turkey	**2295**	2017	46	204	28	76	129	24	175	74		436	657	357	4	69	1	182	39		209	3	544	4	5		29
Ukraine	**608**	602	3	2	1	2	6	1	31	10		49	396	133		16	3	4	1		122		289		2		5
United Kingdom	**422**	257	79	65	21	2	12		13			58	87	24	1	58		10	3	3	28	39	2	2	3		1
Sub-total		**10156**	**687**	**1047**	**320**	**217**	**304**	**56**	**607**	**190**	**1**	**1629**	**3207**	**4008**	**21**	**652**	**30**	**392**	**98**	**4**	**1187**	**152**	**2215**	**9**	**39**	**8**	**175**
Total				**12198****																							

* Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction.

** Including twelve judgments which concern two respondent States: France and Spain (1992), Turkey and Denmark (2001), Hungary and Greece (2004), Moldova and Russia (2004), Romania and Hungary (2005), Georgia and Russia (2005), Hungary and Slovakia (2006), Hungary and Italy (2008), Romania and the United Kingdom (2008), Romania and France (2008), Albania and Italy (2009), and Montenegro and Serbia (2009).

Bladet Tromsø and Stensaas v. Norway, 20 May 1999 (21980/93)

How a Seal-hunting Expedition Transformed Press Freedom

I think it is fair to say that the European Convention on Human Rights has a strong position in Norway. Historically, this is reflected in the fact that Norway was among the first States to ratify the Convention, in 1952. Further, in 1999 Norway adopted the Human Rights Act (*Menneskerettsloven*), which incorporates the Convention into Norwegian law and gives it priority over other domestic legislation in case of a conflict. Finally, I am proud to mention that a Norwegian, Rolv Ryssdal, was the Court's President from 1985 to 1998.

More important than this, however, is the concrete impact of the Convention on Norwegian legislation and court practice. Norwegian legal scholars and lawyers have in different ways contributed to making the Convention a 'living instrument' at the domestic level, to the effect that the Convention has become part of the everyday life of the Norwegian courts. While the number of complaints against Norway is low, some of the Court's judgments in Norwegian cases are regarded as being of great importance for the Court's case-law, in addition to having given rise to changes in the domestic law and courts' practice. This is particularly significant with regard to the balancing between freedom of expression and the protection of private life.

The most important case in this regard is probably *Bladet Tromsø and Stensaas*. It concerned a newspaper article about breaches of seal-hunting regulations, allegedly committed by the crew of a vessel, *Harmoni*. The article was presented under the headline 'Seals skinned alive', and it was based on a report by a seal-hunting inspector who had been on board the *Harmoni*. Although the names of the members of the crew were not disclosed in the article, the individuals in question were still identifiable, or so they claimed. Because of the critical contents in the article they brought defamation proceedings against the newspaper and its editor. They were successful, in that the domestic courts declared six of the statements in the article null and void and granted the crew members monetary compensation.

Subsequently, however, the newspaper and its editor brought a complaint before the European Court of Human Rights, arguing that the domestic courts' judgments had violated their right to freedom of expression. The Court examined the complaint thoroughly. First, it discussed whether the article in question concerned a matter of public interest. It answered that in the affirmative, referring to the fact that there had been an ongoing and intense debate on seal-hunting methods both on the national and the international level. Second, the Court pointed out that the article in question was balanced and that it was one of several articles in the same newspaper that expressed different views on seal hunting as such and hunting methods in particular. Furthermore, the Court emphasized that the statements in the article were based on a public report, on which the newspaper should be allowed to rely. While the private interests of the crew members were clearly relevant, they could not be given priority, given that the statements in question were not particularly serious and that none of the crew members had been mentioned by name. The Court concluded that the domestic courts' judgments had violated the newspaper's right to freedom of expression, or, more precisely, its right to impart information, which is protected in Article 10 of the Convention.

The Court's judgment in the case of *Bladet Tromsø and Stensaas* has had a great impact on its jurisprudence. This is notably because it balances the importance of accepting debate and critical views on questions of public interest against the need to protect the honour of private persons, particularly when they have not themselves sought publicity. The judgment has furthermore had an impact on the domestic level, in that the Norwegian courts have made important efforts to follow the guidelines established by the Court. It is also noteworthy in this respect that in 2004 paragraph 100 of the Norwegian Constitution was amended by underlining more clearly than before the right to impart and receive information without sanctions of any kind being imposed, unless such sanctions can be accepted in the light of the ideas on which freedom of expression is based.

Sverre Erik Jebens
Judge at the Court

Rekvényi v. Hungary, 20 May 1999 (25390/94)

Policing Transitional Measures in a Democracy

Twenty years after the collapse of communism the 'transition to democracy' is still unfinished business. In many regards the former communist countries are already facing problems of post-democracy, but in a postmodernist way they are still fighting the ghosts of the past, some of them vigorously. The problem is not that these countries are not robust democracies, but that democracy in itself cannot solve problems of national identity where dealing with the past remains a recurrent problem. This is a problem of culture, and the law has difficulties when it is forced to intervene in cultural processes that do not necessarily follow the logic of the rule of law.

What seemed to be a single brave act, namely closing the book on an authoritarian past for a better, democratic present, became a continuous hassle, an unfinished business of rewriting, even a way of life. Transitional justice became the source of new abuse and an obstacle to facing past injustice candidly. Notwithstanding respect for democracy and human rights, some former communist societies have not been able fully to overcome the structures of power and mentality that originated in communism.

Rekvényi v. Hungary has the lasting merit of recognizing the applicability of the rule of law even in transition, setting the framework for transition justice while admitting that the specific circumstances of the transition require a more nuanced interpretation of the standards of permissible rights restriction. *Rekvényi*'s lessons on transition measures turned out to be a lot more general. In a number of member States of the Council of Europe the exceptional nature of *Rekvényi* is understood as directly applicable even 20 years after the beginning of the transition.

Rekvényi dealt with a 1993 amendment of the Hungarian Constitution. As from 1 January 1994, members of the armed forces, the police and security services were prohibited from joining any political party and from engaging in any political activity. The Court considered this restriction by putting it into a broader context. In the Court's view, 'the desire to ensure that the crucial role of the police in society is not compromised through the corrosion of the political neutrality of its officers is one that is compatible with democratic principles'. This general concern was, of course, in need of actualization. Specific national circumstances matter. The restriction was understood in context: it was of 'a special historical significance in Hungary because of that country's experience of a totalitarian regime that relied to a great extent on its police's direct commitment to the ruling party'. The partial ban on political participation was related to a matter that none of the parties to the case was willing to raise (as if historical circumstances are something to be ashamed of when it comes to human rights of 'eternal validity'): 'Given Hungary's peaceful and gradual transformation towards pluralism without a general purge in the public administration, it was necessary to depoliticize, *inter alia*, the police and restrict the political activities of its members so that the public should no longer regard the police as a supporter of the totalitarian regime but rather as a guardian of democratic institutions.'

The beauty and principal virtue of the judgment is that although it accepts a certain measure of restriction of a Convention right, which perhaps might not be acceptable in different conditions, it does so in a way that indicates that certain other restrictions will not be acceptable. Even in the specific circumstances of the case the Court was able to use the opportunity to enlarge the meaning of freedom of expression, reading into it a right of general political participation: 'The Court takes it for granted that the pursuit of activities of a political nature comes within the ambit of Article 10 in so far as freedom of political debate constitutes a particular aspect of freedom of expression.'

What *Rekvényi* could not answer concerns its own applicability over time. For how long can these specific means of sustaining the neutrality of the police (restricting freedom of political participation) remain acceptable? How long must the transition last? Is it possible that transition reproduces itself and becomes the normal form of operation of certain democracies? The jurisprudence of the Court offers a principled procedural answer: what matters in such situations is that such restrictive acts are inherently temporary measures and must be under constant review.

András Sajó
Judge at the Court

Slivenko v. Latvia, 9 October 2003 (48321/99)

Bilateral Obligations v. the Convention: Foreign Troop Withdrawal and the Right to a Home

On 9 October 2003 the Grand Chamber delivered its judgment in *Slivenko v. Latvia*. The case, which principally concerned the removal of the applicants from Latvia, raised complex issues in relation to Article 8 of the Convention. The two applicants, a mother and her daughter, were subject

to removal as part of the implementation of a bilateral agreement between Latvia and Russia on the withdrawal of ex-Soviet troops from the territory of Latvia, which provided that 'the withdrawal of Russian Federation military troops shall concern all members of the armed forces of the Russian Federation, members of their families and their movable property'.

The Court noted the fact that the first applicant, a spouse of a Russian officer, had arrived in the territory of Latvia in 1959 at the age of one month and the second applicant was born and educated there. In the Court's view, the removal amounted to interference with private life and home. It first observed that the applicants did not have the right to choose a country in which to live and, given that they were removed together with Mr Slivenko to Russia, they could continue their family life. The Court then focused on whether the interference with private life and home was justified. It considered that the Treaty pursued a legitimate aim in that 'the withdrawal of the armed forces of one independent State from the territory of another, following the dissolution of the State … constitutes, from the point of view of the Convention, a legitimate means of dealing with various … problems arising from that dissolution' (§ 116). The Court also recognized that, with respect to active servicemen, 'the public interest' in their removal will 'normally outweigh the individual's interest in staying' (§ 117).

However, it was of the view that in the specific case the Latvian authorities should have assessed the individual danger of the applicants to national security based on their family ties with former military officers (§ 122). It came to the conclusion that it could not 'accept that the applicants could be regarded as endangering the national security of Latvia by reason of belonging to the family of the first applicant's father, a former Soviet military officer who was not himself deemed to present any such danger'. The category of officers and soldiers subject to removal did not cover all former officers who had during the Soviet period settled in Latvia following their retirement. The Court also found that the applicants had sufficiently integrated into Latvian society, while this was not the case in Russia, even if they had moved there some time ago and obtained Russian citizenship.

Six judges dissented, noting that:

> *The specific historical context and purpose for which the treaty was signed, namely the elimination of the consequences of the Soviet rule of Latvia [is] of foremost importance in assessing the justification for an interference with [individual rights].*

It has been questioned in international law circles whether it is appropriate to apply the case-law under Article 8 on expulsion and extradition, as developed in times of peace, to the specific situation of the withdrawal of the former Soviet troops from the Baltic States as part of their decolonization process. Furthermore, the question arises to what extent a solution negotiated with a view to pursuing peace in the region in accordance with UN and OSCE principles can subsequently be 'modified' through the use of the Convention. On the other hand, this clash between the bilateral treaty and the Convention must also be seen in the light of a special hierarchy where obligations in human rights treaties enjoy some kind of precedence to 'merely transactional bilateral instruments'. In any event, it has been argued that 'the construction of the bilateral treaty by reference to the later multilateral treaty was reasonable, and little else seems pertinent' (M. Koskenniemi, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, Report of the Study Group of the International Law Commission, Helsinki, 2007). Yet can a treaty signed for a specific historic purpose be seen like any other bilateral treaty on trade or similar issues?

The execution of the judgment has also raised many questions, since the applicants had become Russian citizens with residence in Russia. The Committee of Ministers requested that there be a reopening of the proceedings in the Latvian administrative courts. It insisted on a certain result – that the courts should grant them permanent residence in Latvia, which would amount to a proper *restitutio in integrum*. It may seem curious that an international organization could order any court to reach a particular result or that the State is told under what status a person should be admitted to the territory, since this is typically a matter of State sovereignty. However, the administrative courts re-adjudicated the case and found that in view of the applicants' foreign citizenship residence Latvian law did not permit the applicants to acquire a status of non-citizens permanent residence. The Latvian authorities, nevertheless, granted the applicants permanent residence permits in order to settle the case.

The case continues to raise interesting questions about the application of the Convention within the general system of international law and the use of the principle of *restitutio in integrum* in such cases.

Ineta Ziemele
Judge at the Court

Assanidze v. Georgia, 8 April 2004 (71503/01)

Imputabilty of Unlawful Detention in the Ajarian Autonomous Republic

The applicant, Tengiz Assanidze, a former mayor of Batumi and a member of the Supreme Council of the Ajarian Autonomous Republic in Georgia, was arrested by the local Ajarian authorities on 4 October 1993 and, in a final verdict of 27 April 1995 of the Supreme Court of Georgia, convicted of corrupt financial dealings. By a presidential pardon of 1 October 1999 the final two years of his sentence were remitted. On 11 November 1999 the Ajarian High Court declared the presidential pardon null and void. However, the Supreme Court of Georgia overturned that decision, ruling that the applicant should be released immediately. The Ajarian authorities did not obey that ruling. Instead, on 2 October 2000 the Ajarian High Court convicted the applicant of certain other crimes and sentenced him to 12 more years in prison. On 29 January 2001 the Supreme Court of Georgia quashed the applicant's second conviction of 2 October 2000 and acquitted him. Despite the presidential pardon of 1 October 1999 and the acquittal of 29 January 2001, the Ajarian authorities kept the applicant detained in a remand prison of the Ajarian Ministry of Security.

The Court held in its judgment that there had been a violation of Article 5 § 1 and Article 6 § 1 on account of the non-recognition of the applicant's acquittal of 29 January 2001 and his arbitrary detention after that date, and it dismissed the remaining complaints on various grounds. The Court awarded the applicant 150,000 euros for pecuniary and non-pecuniary damage and 5,000 euros for costs and expenses. It also held that the Georgian State had to secure the applicant's release at the earliest possible date.

The judgment is remarkable for the development of the Court's case-law in two areas. First, the issues of 'jurisdiction' and 'responsibility' under Article 1 of the Convention. The Court initially concluded that the Ajarian Autonomous Republic undoubtedly fell within the respondent State's 'jurisdiction', as the latter notion was understood under Article 1 of the Convention, for the following reasons, among others: the Ajarian Autonomous Republic was an integral part of Georgia and subject to its competence and control; Georgia had ratified the Convention for the whole of its territory, without any reservation under Article 57 of the Convention with regard to the Ajarian territory; the authorities of the Autonomous Republic had never expressed any separatist aspirations; and no other State exercised effective overall control.

The Court then addressed the issue of the respondent State's international responsibility, holding that a State Party to the Convention remains responsible for events occurring anywhere within its national territory and the higher authorities of that State are under a duty to require their subordinates to comply with the Convention and cannot shelter behind their inability to ensure that it is respected. The Court concluded that the Georgian State was responsible for the violations, notwithstanding the finding that those matters were directly imputable to the local authorities of the Ajarian Autonomous Republic and despite the fact that all possible legal steps were taken by the central authorities to secure the release of the applicant.

The second area was the development of specific measures under Article 46 of the Convention. The Court required the Georgian government, under Article 46 of the Convention, to undertake specific measures to remedy the violations found, notably to secure the applicant's release at the earliest possible date. The violations found in the case did not leave any real choice as to the measures required to remedy them.

Tengiz Assanidze was released shortly after the Court's judgment.

Nona Tsotsoria
Judge at the Court