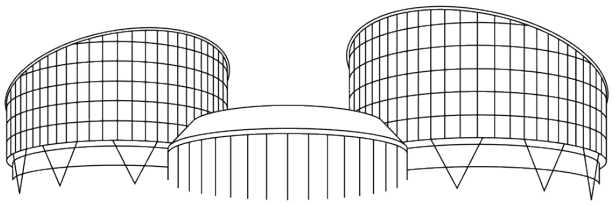

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 42987/09
Sergei ANDREYEV
against Estonia

The European Court of Human Rights (First Section), sitting on 22 January 2013 as a Chamber composed of:
Isabelle Berro-Lefèvre, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*
and Søren Nielsen, *Section Registrar*,

Having regard to the above application lodged on 22 July 2009,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having regard to the fact that the Russian Government, having been informed by the Registrar of their right to intervene (Article 36 § 1 of the Convention), indicated that they did not intend to do so,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Sergei Andreyev, is a Russian national who was born in Estonia in 1961. He is represented before the Court by Mr R. Käbi, a lawyer practising in Tallinn

2. The Estonian Government ("the Government") are represented by their Agent, Ms M. Kuurberg, of the Ministry of Foreign Affairs.

A. The circumstances of the case

3. The facts of the case, as submitted by the parties and as they appear from the documents in the case file concerning the present case, as well as the file concerning application no. 48132/07, lodged on 30 October 2007 in respect of criminal proceedings against the applicant (see *Andreyev v. Estonia*, no. 48132/07, 22 November 2011), may be summarised as follows.

1. The applicant's personal information

4. The applicant was born in Estonia and has spent his whole life in that country. He has two daughters, who were born in 1992 and 1997. The elder daughter is a Russian national and the younger is a stateless person. In 1997 the applicant's marriage was dissolved, but it appears that he continued to live with his family.

5. From 1995 to 2000 the applicant had a temporary residence permit in Estonia. In 2000 he was granted a permanent residence permit (*alaline elamisluba*). In 2006, pursuant to a legislative change, his permanent residence permit was transformed into a long-term residence permit (*pikaajalise elaniku elamisluba*).

2. Criminal proceedings against the applicant

6. The Viru County Court convicted the applicant of the repeated rape, between 2001 and 2005, of his minor daughter born in 1992, and sentenced him to nine years' imprisonment. As summary proceedings had been applied, the sentence was reduced by one-third. The operative part of the judgment was delivered at a hearing on 3 November 2006. After the applicant had informed the County Court of his intention to appeal, the court delivered the full text of the judgment, which was served on the applicant on 22 November 2006. The operative provisions of that full text had been amended – in addition to the operative part originally delivered, the expulsion of the applicant after his release from prison was ordered and a ten-year prohibition on entering the country was imposed.

7. The applicant appealed, and by a judgment of 5 March 2007 the Viru Court of Appeal dismissed his appeal. The applicant informed the Court of Appeal of his intention to appeal against that decision.

8. On 9 May 2007 the Supreme Court rejected an appeal drawn up by the applicant since such an appeal had to be drawn up by an advocate. However, the applicant's counsel K. submitted the appeal too late and on 9 May 2007 the Supreme Court rejected it.

3. Subsequent proceedings initiated by the applicant

9. On 6 March 2008 the Court of Honour (*aukohus*) of the Estonian Bar Association (*Eesti Advokatuur*), following a complaint by the applicant, found that the failure of the applicant's lawyer to find out whether he wished to appeal against the Court of Appeal's judgment and his failure to submit an appeal constituted a disciplinary offence.

10. On 19 January 2009 the Viru County Court granted the applicant legal aid to fund the lodging of a request to the Supreme Court for the criminal proceedings to be reopened (*teistmine*). On 29 June 2009 the lawyer appointed under the legal-aid scheme submitted a request for the reopening of the criminal proceedings (*teistmisavaldus*) at the Supreme Court. In the request it was argued, *inter alia*, that the later amendment of the operative provisions of the judgment convicting him had been unlawful.

11. On 22 July 2009 the Supreme Court declined to examine the request.

4. Revocation of the applicant's residence permit

12. On 21 September 2007 the Citizenship and Migration Board (*Kodakondsus ja Migratsiooniamet*) informed the applicant that it had initiated proceedings for the revocation of his long-term residence permit on the basis of section 14-9(1)(3) of the Aliens Act (*Välismaalaste seadus*). The Board referred to the Viru County Court judgment of 3 November 2006 and the ten-year prohibition on entry imposed by it.

13. The applicant objected to the revocation of his residence permit. He argued that he had been born in Estonia, had spent all his life in that country and his family lived there. He did not pose any threat to his family.

14. On 24 October 2007 the Board revoked the applicant's long-term residence permit for Estonia. It found that the applicant posed a threat to public safety because he had committed deliberate sexual offences. In making its decision, the Board had regard, *inter alia*, to the nature and severity of the offence he had committed and the extent to which it posed a threat to society, the duration of his residence in Estonia, his age, and the likely effects of the revocation of the long-term residence permit on himself and his family members, as well as his links to Estonia. It also took into consideration that the applicant was serving a six-year prison sentence and that the criminal court had imposed a ten-year prohibition on entry to the country. The Board assessed these circumstances and concluded that the revocation of the applicant's long-term residence permit was a measure proportionate to the aim of protection of the rights of other persons resident in Estonia.

15. The applicant lodged a complaint with the Tallinn Administrative Court against the Board's decision. He argued, *inter alia*, that in the operative part of the Viru County Court judgment as originally delivered there had been no supplementary punishment of expulsion.

16. By a judgment of 11 April 2008 the Administrative Court dismissed the applicant's complaint. It noted that the applicant's expulsion and the prohibition on entry had been imposed by the Viru County Court in the criminal proceedings, that the judgment had become final, and that there was no cause to raise these matters again in administrative court proceedings. The Administrative Court found that in taking its decision the Board had considered all the relevant circumstances. The court agreed with the Board's opinion that the applicant posed a serious threat to public order and national security, and found that the principle of proportionality had not been breached.

17. On 30 January 2009 the Tallinn Court of Appeal upheld the Administrative Court's judgment. It reiterated that it could not assess the lawfulness of the judgment of the Viru County Court and pointed out that the applicant could have presented arguments to the Viru Court of Appeal concerning the lawfulness or otherwise of the supplementary punishment in the criminal proceedings, but it appeared that he had not done so. The Court of Appeal was of the opinion that in the case at hand the Board had had no discretion in the revocation of the applicant's residence permit. Because of the supplementary punishment imposed on the applicant in the criminal proceedings the Board should have relied on section 28(3-1) of the Obligation to Leave and Prohibition of Entry Act (*Väljasõidukohustuse ja sissesõidukeelu seadus*), which provided that if a prohibition on entry had been imposed on an alien, the alien's residence permit was to be revoked. As the Court of Appeal agreed with the final conclusions of the Board and the Administrative Court, it dismissed the applicant's appeal.

18. On 2 April 2009 the Supreme Court declined to hear an appeal by the applicant against that judgment.

19. On 29 July 2011 the applicant applied for a temporary residence permit. On 18 November 2011 the Police and Border Guard Board refused his request because he had committed a criminal offence for which he had been sentenced to more than one year's imprisonment, and his criminal record was not spent. The applicant lodged a complaint with the Tartu Administrative Court.

5. Developments since the Court's judgment of 22 November 2011 concerning application no. 48132/07

20. On 22 November 2011 the Court delivered its judgment in respect of application no. 48132/07, lodged by the applicant. The Court found a violation of Article 6 § 1 of the Convention because the applicant had no access to the Supreme Court in the criminal case against him.

21. On 28 December 2011, relying on the Court's judgment, the applicant lodged a request with the Supreme Court for the criminal proceedings to be reopened (*teistmine*). He submitted additional arguments on 30 January 2012.

22. On 28 December 2011 the Criminal Chamber of the Supreme Court suspended the execution of the additional punishment (the applicant's expulsion) ordered by the Viru County Court judgment of 3 November 2006, pending delivery of a decision on his request for reopening of proceedings.

23. On 29 December 2011 the applicant was released from prison on completion of his sentence. It appears that he was arrested by the police almost immediately afterwards, as he had no legal right to remain in Estonia, nor did he have a valid travel document. The Police and Border Guard Board issued an immediately enforceable expulsion order (*ettekirjutus Eestist lahkumiseks*) in respect of the applicant and imposed a five-year prohibition on entry.

24. On 29 December 2011 the Tartu Administrative Court authorised the applicant's detention in a deportation centre until his expulsion, but for not more than two months. His detention was subsequently extended on several occasions. He was released on 20 June 2012.

25. On 17 February 2012 the applicant requested the Viru County Court to resolve the discrepancy between the operative provisions of the Viru County Court judgment of 3 November 2006 as originally delivered and the operative provisions of the full text of the same judgment delivered subsequently. On 21 February 2012 the County Court issued a ruling that the operative provisions of the judgment originally delivered on 3 November 2006, that no additional punishment was to be imposed on the applicant, were decisive.

26. On 29 February 2012 the Supreme Court agreed to examine the applicant's request for the reopening of the criminal proceedings.

27. On 7 March 2012 the applicant lodged a request with the Supreme Court for the administrative court proceedings to be reopened (*teistmine*). On 17 April 2012 the Supreme Court granted the request.

28. By a judgment of 9 May 2012 the Criminal Chamber of the Supreme Court quashed the Supreme Court's decision of 9 May 2007 under which the appeal drawn up by the applicant's legal-aid lawyer K. on the applicant's behalf had been rejected as having been lodged too late (see paragraph 8 above). In addition, the Supreme Court endorsed the Viru County Court decision of 21 February 2012 concerning the legal relevance of the original operative provisions of the judgment of 3 November 2006. It considered that thereby the ambiguity concerning the applicant's additional punishment had been set aside and his expulsion as additional punishment on the basis of the said judgment was excluded.

29. By a judgment of 20 June 2012 the Administrative Law Chamber of the Supreme Court upheld the applicant's request for the reopening of the administrative court proceedings and quashed the Tallinn Administrative Court's judgment of 11 April 2008 and the Tallinn Court of Appeal's judgment of 30 January 2009. Furthermore, the Supreme Court overturned

the Citizenship and Migration Board's decision of 24 October 2007 by which the applicant's residence permit had been revoked. The Supreme Court considered that the Board could have made a different decision if it had not relied on the operative provisions of the judgment setting out the additional punishment in the applicant's criminal case. The Supreme Court also noted that under the new Aliens Act, as under the old one, it was possible to revoke an alien's residence permit if he or she constituted a threat to public order or national security.

30. On 20 June 2012 the Police and Border Guard Board revoked the decision of 24 October 2007 revoking the applicant's residence permit. The applicant's status as a long-term resident was restored and he was issued with an identity card stating that he was a long-term resident. As it appears from the Tallinn Administrative Court's decision of 6 July 2012, available in a public database of judicial decisions, on 22 June 2012 the Board also revoked the expulsion order of 29 December 2011 (see paragraph 23 above) and the applicant withdrew his complaint against that order.

6. Subsequent revocation of the residence permit

31. On 5 July 2012 the Police and Border Guard Board initiated new proceedings for the revocation of the applicant's residence permit. The applicant was asked to state his position.

32. On 29 August 2012 the Police and Border Guard Board, having reassessed the circumstances, decided to revoke the applicant's residence permit with effect from 29 November 2012, regardless of the fact that the applicant was not subject to expulsion as an additional punishment. The Board relied on section 241(1)(2) of the Aliens Act, pursuant to which a residence permit for a long-term resident could be revoked if he posed a threat to public order or national security. The Board considered that the commission of a serious sexual offence by the applicant was to be deemed as such a threat. The general interest of protecting the rights of other Estonian residents outweighed the applicant's ties with Estonia. Considering the nature of the offence committed by the applicant, the Board found that there were grounds to think that he would continue to be dangerous in the future. The fact that the victim of his offence – his daughter – had become an adult in the meantime did not preclude the applicant's committing a new offence against another person.

33. In respect of the applicant's family ties the Board noted that he was divorced. His second daughter, who was fifteen years old, lived in Estonia, but due to the applicant's offence and imprisonment he had only been able to be a long-distance parent during the last six years. The revocation of the applicant's residence permit would not aggravate this situation, which had developed over the years. The applicant was a Russian national; considering his age he would not face insurmountable obstacles in integrating into the society of the country of his nationality. As his mother tongue was Russian,

no language barrier would hinder his finding a job and integrating into Russian society.

34. The decision of the Board could be challenged before an administrative court.

B. Relevant domestic law and practice

35. Section 14-9(1)(3) of the Aliens Act (*Välismaalaste seadus*), as in force until 30 September 2010, provided that the long-term residence permit of an alien (*pikaajalise elaniku elamisluba*) could be revoked if he or she posed a serious threat to public order and safety. Section 14-9(2) provided that in revoking the long-term residence permit of an alien on the above ground, account had to be taken of the seriousness and nature of the offence committed by the alien or the threats posed by him or her, as well as of the length of his or her residence in Estonia, his or her age, the consequences of the revocation of the residence permit for the alien and his or her family members, and his or her ties with Estonia and the country of origin.

36. On 1 October 2010 a new Aliens Act (*Välismaalaste seadus*) entered into force. It provides in section 124(2)(7) that a temporary residence permit shall not be issued if an alien has committed a criminal offence for which he or she has been sentenced to imprisonment for a term for more than one year and his or her criminal record has not expired. Nevertheless, pursuant to section 125(1)(2) of the Aliens Act, a temporary residence permit may exceptionally be issued to such a person.

37. Section 241(1)(2) of the Aliens Act provides that a residence permit of a long-term resident may be revoked if he or she poses a threat to public order and national security. Section 241(3) stipulates that in revoking the residence permit of a long-term resident on the grounds that he or she poses a threat to public order and national security account shall be taken of the seriousness and nature of the offence committed by the alien or the threats posed by him or her, as well as of the length of his or her residence in Estonia, his or her age, the consequences of the revocation of the residence permit for the alien and his or her family members, and his or her ties with Estonia and his or her country of origin.

38. Section 248 of the Aliens Act provides that an appeal may be lodged with an administrative court against a decision revoking a residence permit within ten days of the date of notification of the decision.

39. Section 7(1) of the Obligation to Leave and Prohibition on Entry Act (*Väljasõidukohustuse ja sissesõidukeelu seadus*) provides that an expulsion order shall be issued to an alien who has no legal basis to remain in Estonia. An appeal against a decision to issue an expulsion order or against a prohibition on entry may be lodged with an administrative court (section 13(3)). Expulsion can also be challenged before an administrative court (section 16(1)).

40. Section 14(5)(1) of the Obligation to Leave and Prohibition on Entry Act provides that expulsion is suspended if a court suspends compulsory execution of an expulsion order.

41. Section 28(3-1) of the Obligation to Leave and Prohibition of Entry Act provides that if a prohibition on entry is imposed in respect of an alien, the alien's residence permit shall be revoked.

42. Article 54 § 1 of the Penal Code (*Karistusseadustik*), as in force at the material time, provided that if a court had convicted a citizen of a foreign State of a first-degree criminal offence (*esimese astme kuritegu*) and imposed imprisonment on him or her, the court could impose expulsion with prohibition on entry for up to ten years as a supplementary punishment for the convicted offender.

43. In a judgment of 22 March 2007 (case no. 3-3-1-2-07) the Administrative Law Chamber of the Supreme Court found that upon issuing an expulsion order in the case in question the migration authorities had not been required to assess whether the person concerned posed a threat to national security. An assessment related to the possible infringement of the complainant's right to respect for his family life had had to be carried out when the question whether to grant him a residence permit had been dealt with.

COMPLAINTS

44. The applicant complained that the arguments he had submitted against his expulsion in the proceedings concerning the revocation of his residence permit (see paragraphs 12 to 18 above) had been ignored, and that depriving him of a residence permit for Estonia had effectively deprived him of his right of residence and freedom of movement within the whole of the European Union. He emphasised that Estonia was his home country, where he had been born and where he had spent his whole life. He cited Article 1 of Protocol No. 7 and Article 2 § 1 of Protocol No. 4.

45. The applicant further complained that the administrative court proceedings concerning the revocation of his residence permit (see paragraphs 15 to 18 above) had been unfair and their length excessive; that the courts had lacked impartiality; that the parties had not been given equal treatment; and that he had not been granted legal aid and had not had the opportunity to call witnesses to the court. He relied on Article 6 §§ 1 and 3 (c) and (d) and Article 13 of the Convention and Article 1 of Protocol No. 12.

THE LAW

A. Alleged violation of Article 8 of the Convention and Article 1 of Protocol No. 7 to the Convention

46. The applicant complained that he had been deprived of a residence permit for Estonia, and contended that the arguments he had submitted against his expulsion had been ignored. Being the master of the characterisation to be given in law to the facts of the case (see, for example, *Guerra and Others v. Italy*, 19 February 1998, § 44, *Reports of Judgments and Decisions* 1998-I), the Court considers that the applicant's complaint falls to be examined under Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 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."

47. The applicant also relied on Article 1 of Protocol No. 7 to the Convention, which reads as follows:

> "1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:
>
> (a) to submit reasons against his expulsion,
>
> (b) to have his case reviewed, and
>
> (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.
>
> 2. An alien may be expelled before the exercise of his rights under paragraph 1 (a), (b) and (c) of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security."

1. The parties' submissions

(a) The Government

48. The Government referred to possible non-compliance by the applicant with the six-month rule set out in Article 35 § 1 of the Convention. The Supreme Court's decision in the administrative court

proceedings concerning the revocation of the applicant's residence permit was made on 2 April 2009, whereas the applicant signed the application form on 3 October 2009 and the Court received it on 2 November 2009.

49. The Government further referred to the Court's letter dated 24 August 2011, in which it was noted that the period allowed for the applicant to submit his power of attorney had expired on 20 July 2011, that no extension had been requested, and that therefore the Court could strike the case out of its list of cases under Article 37 § 1 (a) of the Convention. The Government asked the Court to strike the application out of its list on that basis, as the applicant was not interested in pursuing his case.

50. As to the substance of the case the Government submitted that following the domestic developments, in particular the Supreme Court's judgment of 20 June 2012 annulling the Citizenship and Migration Board's decision of 24 October 2007 and quashing the lower courts' judgments, the validity of the applicant's residence permit had been restored. Accordingly, the Government argued, the applicant had ceased to be a victim of the alleged violation of the Convention. They considered that the Supreme Court's judgment clearly and expressly admitted that there had been an abuse of discretion when the applicant's long-term residence permit was revoked. Furthermore, the unfavourable consequences of the violation for the applicant – revocation of his residence permit – had been extinguished. The redress afforded had been appropriate and sufficient, the validity of the applicant's long-term residence permit was restored, and there were no restrictions on his right to remain in Estonia. As the State had used its right to rectify matters itself, the proceedings in Strasbourg had to be terminated.

51. The Police and Border Guard Board's decision of 29 August 2012 was a completely new administrative act, with new legal grounds and new justifications, and could be contested before the administrative courts at three levels of jurisdiction.

(b) The applicant

52. The applicant argued that he had never received the Court's letter referred to by the Government which set out the time-limit in question (see paragraph 49 above). He considered that he could not be held liable for shortcomings in the postal services, and insisted that he had never lost interest in pursuing his case.

53. The applicant noted that the Estonian authorities had accepted the illegality of the revocation of his residence permit by invalidating the decisions and judgments in question. Nevertheless, the applicant had not lost his victim status under the Convention, as the Supreme Court in its judgment had neither expressly nor in substance acknowledged a violation of the applicant's rights guaranteed under the Convention. Moreover, in the Supreme Court's judgment reference had been made to the possibility of restarting the proceedings to revoke the applicant's residence permit (see

paragraph 29 above). The applicant had been awarded no compensation for the harm caused to him, and under Estonian law he would not be eligible for any compensation.

54. The applicant acknowledged that the authorities had indeed initiated new proceedings, in which his residence permit had again been revoked, and that domestic judicial review was available to him. Nevertheless, he insisted that the dispute had not been resolved: his residence permit had been under dispute since 2007 and continued to be so. He still had no reason to feel relieved.

2. The Court's assessment

(a) Compliance with the six-month rule

55. In respect of the question whether the six-month rule (Article 35 § 1) has been complied with, the Court notes that pursuant to Rule 47 § 5 of the Rules of Court the date of introduction of the application shall as a general rule be considered to be the date of the "first communication from the applicant setting out, even summarily, the subject matter of the application, provided that a duly completed application form has been submitted within the time-limits laid down by the Court." The Court further notes that in the applicant's first communication, signed on 20 July 2009 and handed to the prison authorities on 22 July 2009, the applicant set out the facts of the case and his complaints in a sufficiently detailed manner, his submissions comprising three pages of handwritten text. The applicant was then requested by the Court to fill out an application form and send it back together with copies of pertinent documents to substantiate his application on 6 October 2009 at the latest. The applicant signed the application form on 3 October 2009 and handed it to the prison authorities on 5 October 2009. On this basis, the Court considers that the applicant's first communication to the Court was sufficient to interrupt the running of the six-month period referred to in Article 35 § 1, and that the applicant had complied with the applicable rules in respect of the sending of the completed application form. It follows that the Government's objection has to be rejected.

(b) Whether the applicant lost interest in his application

56. As concerns the question whether the applicant can be deemed to have lost interest in pursuing his case, the Court notes that the applicant responded swiftly to the Court's reminder sent by registered mail once it was delivered to him. Therefore, the Government's request that the application be struck out for the applicant's loss of intention to pursue it must be dismissed.

(c) Regarding the revocation of the applicant's residence permit on 24 October 2007

57. Regarding the applicant's victim status in relation to the revocation of his residence permit on 24 October 2007, the Court reiterates that the word "victim" in the context of Article 34 of the Convention denotes a person directly affected by the act or omission in issue (see, among many other authorities, *Nsona v. the Netherlands*, 28 November 1996, § 106, *Reports* 1996-V, and *Brumărescu v. Romania* [GC], no. 28342/95, § 50, ECHR 1999-VII). In other words, the person concerned must be directly affected by it or run the risk of being directly affected by it (see, for example, *Norris v. Ireland*, 26 October 1988, §§ 30-31, Series A no. 142, and *Otto-Preminger-Institut v. Austria*, 20 September 1994, § 39, Series A no. 295-A). It is not therefore possible to claim to be a "victim" of an act which is deprived, temporarily or permanently, of any legal effect (see *Sisojeva and Others v. Latvia* (striking out) [GC], no. 60654/00, § 92, ECHR 2007-I).

58. It is true 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 afforded redress for, a breach of the Convention (see *Eckle v. Germany*, 15 July 1982, § 66, Series A no. 51; see also *Amuur v. France*, 25 June 1996, § 36, *Reports* 1996-III; *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI; *Labita v. Italy* [GC], no. 26772/95, § 142, ECHR 2000-IV; and *Ilaşcu and Others v. Moldova and Russia* (dec.) [GC], no. 48787/99, 4 July 2001). However, with more particular reference to the specific category of cases involving the deportation of non-nationals, the Court has consistently held that an applicant cannot claim to be the "victim" of a deportation measure if the measure is not enforceable (see *Vijayanathan and Pusparajah v. France*, 27 August 1992, § 46, Series A no. 241-B; see also *Pellumbi v. France* (dec.), no. 65730/01, 18 January 2005, and *Etanji v. France* (dec.), no. 60411/00, 1 March 2005). It has adopted the same stance in cases where execution of the deportation order has been stayed indefinitely or otherwise deprived of legal effect, and where any decision by the authorities to proceed with deportation can be appealed against before the relevant courts (see *Sisojeva*, cited above, § 93, with further references to the cases of *Kalantari v. Germany* (striking out), no. 51342/99, §§ 55-56, ECHR 2001-X, and *Mehemi v. France (no. 2)*, no. 53470/99, § 54, ECHR 2003-IV; see also *Andric v. Sweden* (dec.), no. 45917/99, 23 February 1999; *Benamar and Others v. France* (dec.), no. 42216/98, 14 November 2000; *A.D. v. Switzerland* (dec.), no. 13531/03, 18 January 2005; and *Yildiz v. Germany* (dec.), no. 40932/02, 13 October 2005).

59. The Court observes that in the present case, firstly, the Viru County Court made it clear in its decision of 21 February 2012 that the correct version of the County Court's judgment of 3 November 2006 was the one

which did not include the additional punishment of expulsion. Secondly, on 20 June 2012 the Supreme Court quashed the Citizenship and Migration Board's decision of 24 October 2007 by which the applicant's residence permit had been revoked, and also quashed the administrative courts' judgments by which the applicant's complaint against the Board's decision had been dismissed. Thirdly, on 20 June 2012 the Police and Border Guard Board also revoked the decision of 24 October 2007, thereby restoring the applicant's status as a long-term resident. The Court considers that as a result of these judgments and decisions the applicant's resident status was restored and he no longer faced a risk of deportation. Accordingly, the applicant can no longer claim to be a victim of the alleged violation of Article 8 of the Convention.

60. The Court considers that its finding that the applicant can no longer claim to be a victim of the alleged violation of Article 8 of the Convention applies equally to the complaint under Article 1 of Protocol No. 7 to the Convention.

61. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

(d) Regarding the revocation of the applicant's residence permit on 29 August 2012

62. As regards the subsequent proceedings initiated by the Police and Border Guard Board, which led to the revocation of the applicant's residence permit on 29 August 2012 (see paragraphs 31 to 34 above), the Court observes that this measure was taken in separate, newly initiated proceedings and is subject to judicial review by the administrative courts at three levels of jurisdiction. The Court considers that it is at present barred from considering the new proceedings on the merits, because the domestic remedies have not been exhausted in this respect. The Court points out, however, that once these remedies have been exhausted the applicant may, if appropriate, lodge with the Court a new application in which the above issue can be raised.

63. Thus, it follows that in the present circumstances this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention.

B. Other alleged violations of the Convention

64. The applicant also made a number of further complaints concerning the removal of his residence permit and the related proceedings. He cited Article 6 §§ 1 and 3 (c) and (d) and Article 13 of the Convention, Article 2 § 1 of Protocol No. 4 and Article 1 of Protocol No. 12. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any

appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court by a majority

Declares the application inadmissible.

Søren Nielsen Registrar	Isabelle Berro-Lefèvre President