



The Convention does not allow the Democratic Republic of the Congo to bring a case before the Court

In its decision in the case of [Democratic Republic of the Congo v. Belgium](#) (application no. 16554/19) the European Court of Human Rights has by a majority declared the application inadmissible. The decision is final.

The Democratic Republic of the Congo complained about the reasoning given in judgments of the Brussels Court of Appeal and the Court of Cassation in determining the starting point of the limitation period for civil actions. It relied on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the Convention.

The Court held that only High Contracting Parties, private persons, groups of individuals or non-governmental organisations were entitled to bring a case before it, under Articles 33 (inter-State cases) and 34 (individual applications) of the Convention. The Democratic Republic of the Congo did not fall into any of those categories. The Convention therefore did not authorise it to bring a case before the Court.

The application was thus incompatible *ratione personae* with the Convention.

Principal facts

The application was lodged by the Democratic Republic of the Congo (DRC), as a minority shareholder in a mining company incorporated under Zaïrean law which was liquidated in the 1990s.

In 2005 the DRC applied for civil party status in criminal proceedings brought against a number of individuals and companies on charges of using forgeries. Before the Brussels Court of First Instance it sought compensation for the damage it claimed to have sustained.

In 2006 the Court of First Instance declared that it had no jurisdiction to rule on the applicant's civil party status and declared its other civil claims to be time-barred. The DRC applied to have those decisions set aside and then lodged an appeal with the higher court.

In 2017 the Brussels Court of Appeal ruled that the civil action brought by the DRC was time-barred. It then appealed to the Court of Cassation, complaining about the reasoning of the Court of Appeal. The following year, the Court of Cassation dismissed its appeal.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 20 March 2019.

The DRC complained about the reasoning of judgments handed down by the Brussels Court of Appeal and the Belgian Court of Cassation in determining the starting point of the limitation period for civil actions before the Belgian courts, relying on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the Convention.

The decision was given by a Chamber of seven judges, composed as follows:

Georgios A. **Serghides** (Cyprus), *President*,
Paul **Lemmens** (Belgium),
Dmitry **Dedov** (Russia),
Georges **Ravarani** (Luxembourg),

María Elósegui (Spain),
 Darian Pavli (Albania),
 Anja Seibert-Fohr (Germany),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

While the application had been lodged by the Democratic Republic of the Congo (DRC), it was not an inter-State application under Article 33 of the Convention, which applied only to High Contracting Parties to the Convention and not to third States like the DRC.

The question was therefore whether the DRC could fall within one of the other categories of applicants authorised to lodge an individual application with the Court under Article 34 of the Convention.

The Court first clarified that the DRC was not a private person or a group of individuals; it then examined whether it could be regarded as a non-governmental organisation. It had previously defined “governmental organisations”, as opposed to “non-governmental organisations”, as legal entities which participated in the exercise of governmental powers or ran a public service under government control. Account had to be taken of its legal status and, where appropriate, the rights that status gave it, the nature of the activity it carried out and the context in which it was carried out, and the degree of its independence from the political authorities. Moreover, decentralised authorities that exercised “public functions” could not bring a case before the Convention organs as, regardless of their degree of autonomy, they shared in the exercise of public authority and their acts or omissions engaged the responsibility of the State under the Convention.

Accordingly, the DRC could not be regarded as a “non-governmental organisation” within the meaning of Article 34 and did not fall into any of the other categories of applicants entitled to bring a case before the Court.

The application was thus incompatible *ratione personae* with the Convention and had to be rejected.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.