FOURTH SECTION

**CASE OF SOROKINS AND SOROKINA v. LATVIA**

*(Application no. 45476/04)*

JUDGMENT

STRASBOURG

28 May 2013

FINAL

28/08/2013

*This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.*

In the case of Sorokins and Sorokina v. Latvia,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

David Thór Björgvinsson, *President,* Ineta Ziemele, Päivi Hirvelä, George Nicolaou, Paul Mahoney, Krzysztof Wojtyczek, Faris Vehabović, *judges,* and Françoise Elens-Passos, *Section Registrar,*

Having deliberated in private on 7 May 2013,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1.  The case originated in an application (no. 45476/04) 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 two Latvian nationals, Mr Aleksandrs Sorokins and Mrs Marija Sorokina (“the applicants”), on 11 September 2004; the second applicant is the first applicant’s mother.

2.  The first applicant, who had been granted legal aid, was represented by Mr A. Zvejsalnieks, a lawyer practising in Rīga. The Latvian Government (“the Government”) were represented by their Agent, Mrs I. Reine, who was succeeded by Mrs K. Līce.

3.  The applicants cited Article 3 and complained that police officers had physically ill-treated the first applicant in order to obtain his confession to the charges brought against him. They also cited the authorities’ failure to investigate the ill-treatment. Citing Article 6 of the Convention, the applicants further alleged that the national courts had established the first applicant’s guilt on the basis of a confession obtained in breach of Article 3 of the Convention. They also complained under Article 6 of the Convention that the length of the first applicant’s criminal proceedings had been unreasonable.

4.  On 5 October 2011 the complaint lodged by the first applicant was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I.  THE CIRCUMSTANCES OF THE CASE

5.  The first applicant, Mr Aleksandrs Sorokins, and the second applicant, Mrs Marija Sorokina, are both Latvian nationals who were born in 1971 and 1939 respectively and live in Rīga.

A.  The arrest and alleged ill-treatment of the first applicant

6.  The facts of the case, as submitted by the parties, may be summarised as follows.

7.  On 20 June 1997 at 1.20 a.m. the State police in Rīga received a call from a private individual who informed them that thieves had broken into his neighbours’ flat. According to reports drawn up the same day by three police officers, a patrol team arrived at the address given ten minutes later. They saw a man (the first applicant) running away. They apprehended him and found various items on him, which, it was discovered later, belonged to the owner of the flat. According to a report drawn up the same day by police officer A.E., who had attended the arrest of the first applicant, when apprehended the latter bore no visible injuries.

8.  Questioned on the same day, a neighbour, M.S., stated that she had seen the first applicant attempting to escape when the police arrived.

9.  Following his arrest the first applicant was taken to Rīga Main police station (*Rīgas Galvenā Policijas pārvalde).* At 6.30 a.m. the applicant’s arrest record was drawn up. On the same day, from 11 a.m. to 11.35 a.m., the first applicant was interviewed and denied any wrongdoing.

10.  He was repeatedly questioned the same day, from 4 p.m. to 5 p.m., and confessed to the crime, which he said he had committed with two acquaintances. He stated that he had been in the back yard of the building when one of his acquaintances had given him a bag containing the stolen items which the police later discovered on him.

11.  On the same day (at an unknown time) the first applicant, who was represented by a lawyer, was brought before a judge of the Rīga City Centre District Court and remanded in custody.

12.  On 25 June 1997 the first applicant was taken to the Central Prison.

13.  On 27 June 1997 investigators questioned the two individuals identified by the applicant, as well as another suspect, J.V. The latter confessed to having committed the theft together with the first applicant.

14.  On 30 June 1997 the prosecutor informed the first applicant at the Central Prison that he was being charged with large-scale theft. The applicant confirmed in writing that he had no objections or comments to make. Interviewed by the prosecutor on the same day, the first applicant denied his guilt and asked for the questioning to be postponed because he felt ill.

15.  The first applicant was repeatedly questioned by the prosecutor on 7 July 1997, and confessed to committing the crime, which he said he had committed with J.V. According to the record of the interview, the applicant stated that his earlier statements were false as far as the two acquaintances were concerned (see paragraph 10 above) because“he had been subjected to duress at the police station”. On the same day J.V. refused to provide a statement.

16.  On the same day the co-accused, J.V., alleged that his earlier statement had been given as a result of physical force used by the police. On 8 July 1997 he lodged a complaint in this respect, which was forwarded to the State police for examination. On 26 September 1997 the State police refused to institute criminal proceedings in relation to the alleged ill-treatment of J.V.

17.  On 20 August 1997 final charges were brought against the first applicant and the co-accused, J.V. The first applicant refused the assistance of a lawyer. On being questioned by the prosecutor, he maintained the statements he had given on 7 July 1997.

B.  The trial

18.  On 10 September 1997 the Rīga City Centre District Court decided to commit the applicant and his co-defendant for trial and to maintain their remand in custody. The first hearing was scheduled for 5 March 1998.

19.  The first hearing was rescheduled for September 1998 because the judge was involved in other proceedings. The hearing was subsequently postponed until December 1998 because the co-defendant requested the assistance of defence counsel. The December hearing was rescheduled for February 1999 due to the absence of witnesses and the victim.

20.  From 26 February to 1 March 1999 the Rīga City Centre District Court held a hearing. The first applicant asked the court to request a medical certificate attesting to his physical condition following the questioning during which he had confessed to the crime. The co-accused requested the court to call the doctor who had treated him after he was questioned at the police station. The court left both requests open pending termination of the court investigation, and remitted the criminal case to the Rīga Centre District Prosecutor’s Office for additional pre-trial investigation.

21.  Following an appeal by the prosecutor, in June 1999 the Rīga Regional Court revoked the decision and referred the criminal case back to the lower court for adjudication on the merits. The first applicant submitted an ancillary complaint to the Supreme Court in which he stated, *inter alia*, that during the pre-trial investigation he had been subjected to physical ill-treatment. On 31 August 1999 the Senate decided to leave the complaint unexamined, on the ground that the impugned decision was not subject to an appeal.

22.  In February 2000 the prosecutor asked the Rīga Centre District Court to transfer the criminal case to the Rīga Regional Court which, according to the prosecution, had jurisdiction in the case. The Rīga Regional Court refused the request, and in April 2000 the case was sent back to the district court. At the regional court’s request the Supreme Court ruled in June 2000 that the criminal case was to be tried by the Rīga Centre District Court.

23.  The hearing scheduled for 14 November 2000 was postponed as witnesses and the victim failed to appear.

24.  From August 2001 to March 2002 the hearing was postponed due to the co-defendant’s illness.

25.  On 27 March 2002 the Rīga City Centre District Court, after obtaining the first applicant’s approval for the case to be examined in the absence of witnesses, began hearing the case. During the hearing the first applicant pleaded not guilty and alleged that he did not know J.V. and that he had provided incriminating statements only to avoid being physically ill-treated.

26.  On 2 April 2002 the Rīga City Centre District Court found the first applicant guilty, and sentenced him to four years and nine months’ imprisonment. The first applicant had already served this term in pre-trial detention and was immediately released. His co-defendant was acquitted for lack of evidence.

The court gave weight to the facts that the first applicant had never denied that he had the stolen items on him when he was arrested, and that this had been confirmed by witnesses’ statements. Preferring to give credence to the statements the applicant had made during the pre-trial investigation, the court noted that the case file disclosed no evidence to support the allegations that during his questioning the first applicant had been ill-treated by police officers. Moreover, the first applicant had not raised any complaints in this regard.

27.  The court also relied on the fact that during the pre-trial investigation the first applicant had twice confessed to the prosecutor that he had committed the offence. It noted that the first applicant had never complained about the activities of the prosecutor.

28.  In his appeal the first applicant pleaded that the statements made during the pre-trial investigation had been obtained as a result of his ill-treatment by police officers.

29.  The appellate hearing scheduled for 6 August 2003 was postponed as the first applicant asked for witnesses to be summoned on his behalf.

30.  On 18 December 2003 the lower court’s decision was upheld by the Rīga Regional Court. According to the transcript of the hearing, police officer A.E. stated that he did not remember either the first applicant or his arrest. On cross-examination by the first applicant, A.E. confirmed that force had been used to apprehend the first applicant. A defence witness, A.B., testified that she had seen police officers beating the first applicant on 20 June 1997. The prosecutor in response raised doubts as to whether the first applicant had been arrested in the circumstances alleged.

31.  In the judgment the appellate court referred to the lower court’s reasoning and stated in particular:

“... The case file bears no evidence that during the pre-trial investigation [the first applicant] had been ill-treated by police officers; moreover [the first applicant] had confessed [to the crime] being questioned twice by the prosecutor, and [the first applicant] had never complained about ill-treatment by members of the prosecutor’s office”.

It further observed that the first applicant’s guilt had been attested to by a considerable amount of other evidence, such as witness statements and material evidence. It also noted that self-incriminating statements or denial of guilt could not serve as the only grounds to establish or refute guilt. The court further recognised that the first applicant’s pre-trial statements in relation to J.V. had been of a confusing nature and could not be used as proof of the guilt of his co-accused.

32.  In his appeal on points of law the first applicant reiterated that his confession to the police officers had been obtained as a result of police ill-treatment. He also noted that he had not lodged an official complaint because of fear of retaliation by the police. On 12 March 2004 the Senate of the Supreme Court, in a preparatory session, dismissed his appeal without examining it on the merits. The Senate remarked that the internal investigation of the alleged ill-treatment did not find that the applicant had been beaten up by police officers.

C.  Complaints of ill-treatment and the investigation thereof

33.  It appears from the materials in the criminal file that on 12 November 1998 the first applicant asked the lower court to lift the detention order and stated that his confession to the offence had been obtained under duress. On 7 December 1998 the second applicant asked the lower court to release her son and stated, *inter alia*, in general terms that her son’s confession had been obtained by ill-treatment. On 9 October 2000 the first applicant asked the judge of the lower court to request information about his state of health when he was admitted to the Central Prison and testified before the prosecutor.

34.  On 14 March 2001 the second applicant, in a representation to the President of the Republic, asked the authorities to investigate the ill-treatment to which the first applicant had been subjected on 20 June 1997. She stated that when she had first seen her son in prison he had been severely beaten and had lost a front tooth; his clothes were covered in blood. The lapse of time between the alleged ill-treatment and the complaint was explained by the first applicant’s fear that he would be the victim of reprisals while in prison.

35.  At the request of the head of the State police inquiry department (*Valsts policijas izziņas pārvalde*) for information on whether the criminal file contained information revealing the unauthorised use of force against the first applicant, the judge of the lower court reported in May 2001 that no such information could be found in the criminal file.

36.  The complaint was forwarded to the State Police which, on 25 June 2001, refused to institute criminal proceedings. The decision, drawn up by investigator Z.T., stated:

[6.] Under questioning ... [the first applicant] explained that ... [a]t the arrest the police officers had knocked him to the ground, kicked him and hit him with truncheons, as a result of which he had lost consciousness. He regained consciousness only in the police car ... During the interrogation he had been subjected not only to physical ill-treatment but he also received threats and psychological intimidation. During the interrogation many police officers participated in beating and kicking him, for an extended period of time, on the body and head ... In addition, a plastic bag was put over his head, so that [the first applicant] could not breathe. In his statement [the first applicant] alleged that he had been ill-treated by many police officers, but that he could not remember or identify any of them.

[7.] In addition, in his statement [the first applicant] alleged that he had repeatedly complained to the prosecutor’s office about police ill-treatment, which contradicts the information [received] from the Rīga Centre District Court [according to which] there is nothing to indicate ... that during the pre-trial investigation [the first applicant] had been subjected to ill-treatment by police officers or the prosecutor.

[8.] When taken into the temporary detention unit of the Rīga Main police station no injuries were identified on the [first applicant], and he did not make any complaint, either about his health or about the behaviour of the police officers.

[9.] [The first applicant] asked for medical assistance only on 26 June 1997 in the Central Prison: he was examined and bodily injuries were recorded; on this basis on 4 June [2001] a forensic medical examination was carried out. It appears from the report of [the forensic medical examination] that [the first applicant] had sustained the following bodily injuries: contusion on the right knee joint; contusion on the back with haematoma; bruises on both arms (the number, localisation and characteristics of the bruises not described), which were considered to be minor bodily injuries causing only short-term health problems of no more than six days. It was impossible to establish the exact time the injuries had been sustained, but it could not be excluded that the injuries could have been inflicted on 20 June 1997.

[10.] [The police officer] A.S. stated that ... he had taken part in the arrest of [the first applicant]. He had not observed any visible bodily injuries on [the first applicant], and he could not remember the first applicant complaining of health problems or about the activities of the police officers. If the first applicant had raised any complaint about his health he would have been transferred to a medical establishment.

[11.] Accordingly ... it can be concluded that during the preliminary review of the complaint no objective confirmation was obtained as to the allegations that on 20 June 1997 ... police officers had intentionally inflicted bodily injuries on [the first applicant], as [the latter] complained about health problems only on 26 June, whereas he was apprehended and questioned on 20 June”.

37.  The Chancellery of the President and the Prosecutor General’s Office were informed of the decision taken, and a copy of the decision was sent to the second applicant.

38.  Following the second applicant’s complaint of 26 January 2004, addressed to the President of the Republic, on 31 March 2004 a superior prosecutor of the Prosecutor General’s Office revoked the impugned decision and sent the case for additional investigation to the State police (*Valsts policijas Galvenās Kriminālpolicijas pārvades Pirmstiesas izmeklēšanas pārvalde*) on the ground that not all the facts and circumstances had been established when deciding whether to institute criminal proceedings in connection with allegations of ill-treatment. It appears that the prosecutor had issued specific instructions to the investigators.

39.  On 8 May 2004, after obtaining statements from three other police officers who had taken part in the arrest of the first applicant, the investigator Z.T. established that the police officers had used force in accordance with section 13 of the Police Act, in that the first applicant had not complied with the officers’ requests and had attempted to escape. The decision stated:

[the former police officer] AE stated that he had apprehended [the first applicant] and since the latter ... had attempted to flee, he had caught [the first applicant] and knocked him down, and that as a result they had both fallen down. As the first applicant did not resist, there was no need to apply other means of force. ... [A witness] A.B. testified that she had seen the first applicant being apprehended from her window, and that many police officers had spent a long time beating [the first applicant] with truncheons and kicking him ...

... [T]here are grounds to conclude that the assertions in A.B.’s statements contradict the report of bodily injuries in the forensic expert’s report [of 2001] ... and therefore there are grounds to call into question A.B.’s statement that there had been prolonged beating [of the first applicant] ... in that the bodily injuries of [the first applicant] did not correspond to the [above] description.

... [T]here are grounds to conclude that on 20 June 1997, when [the first applicant] was apprehended, the police officers acted in accordance with section 13 of the Law on Police, and the minor bodily injuries could have been inflicted while he was being apprehended, for, as noted by the police officers, [the first applicant] did not comply with their request, and attempted to escape.”

40.  The decision was sent to the supervising prosecutor of the Prosecutor General’s Office and to the second applicant.

41.  On 18 June 2004 the decision was upheld by a prosecutor attached to the Office of the Prosecutor General. The prosecutor stated that in the course of an additional inquiry no further evidence substantiating the allegations was identified. The decision also noted that, considering the time that had passed since the alleged events, it was practically impossible to obtain new information which could confirm or deny the applicants’ version of the events. The decision was subject to appeal to the Prosecutor General.

D.  Medical examination

42.  According to a medical report drawn up by the medical unit of the Central Prison, on 26 June 1997 the first applicant had complained of pain in the right knee joint and when urinating. He was diagnosed as having haematomas on his back (measuring 10 cm x 15 cm), on both arms (from 1 cm x 3 cm to 5 x 5 cm) and bruises on both arms (0.3 cm x 8 cm). According to the medical records of 3 July 1997 the applicant’s left knee was tender and painful and he was diagnosed as having a urinary infection and bruises on his body. The medical records also stated that according to the applicant “he had been beaten up when being arrested”.

43  Following the first applicant’s complaint of ill-treatment, on 14 June 2001 a forensic medical expert assessment was carried out, which concluded that the bodily injuries (an unspecified number and type of bruises on the left knee, arms and back) were minor and would not cause health problems for more than six days. The expert report could not determine the exact time the injuries had been inflicted on the first applicant, but it did not rule out the possibility that they had been inflicted on 20 June 1997.

44.  According to the information provided by the Government, where a person showed signs of bodily injuries he had to undergo a medical examination before being admitted to a police temporary detention unit. However, the five-year period for the keeping of such documents had expired, and so that information as regards the first applicant was no longer available.

II.  RELEVANT DOMESTIC LAW

A.  Law on Police (*likums “Par policiju”*) as in force at the material time

45.  Under section 10, the basic duties of police officers include the conducting of investigations and necessary searches and other measures prescribed by the law in order to shed light on criminal offences and to identify their perpetrators.

46.  Section 10 provides a list of situations in which police officers are allowed to use physical force, such as when arresting and conveying individuals to police stations, as well as when restraining arrested, detained and convicted persons if they do not comply or if they resist police officers, or if there is reason to believe that they may escape or harm others or themselves;

47.  Section 27 states that a police officer shall be liable for any unlawful action in accordance with the procedure specified by law. If a police officer has violated an individual’s rights and lawful interests, the police authorities shall take measures to redress the violation and award compensation for damage caused.

It also states that a police officer must not carry out or support any activity related to torture or other cruel, inhuman or degrading punishment. No police officer may cite an order from a superior, or exceptional circumstances such as a state or threat of war, a threat to national security, internal political instability of the State or a state of emergency, to justify torture or other cruel, inhuman or degrading treatment or punishment.

According to paragraph six (the wording in force until 10 May 2005), the head of the police station reviews and decides on complaints about the actions of a police officer under his command. Such decisions are subject to appeal within one month to a higher-level institution.

48.  Pursuant to sections 38 and 39, the functioning of the police shall be under the control of the Cabinet of Ministers, the Minister for the Interior and local municipalities, within the scope of their competence. The lawfulness of police operations is supervised by the Prosecutor General and subordinate prosecutors.

B.  The Code of Criminal Procedure *(Latvijas Republikas Kriminālprocesa Kodekss),* as in force at the material time; ceased to be in force on 1 October 2005

49.  Section 3 provides, *inter alia,* that courts and public prosecutors are obliged to initiate criminal proceedings if indications have been discovered that an offence has been committed.

50.  Section 41 provides that a public prosecutor performs supervisory functions, *inter alia,* by revoking unlawful and unreasoned decisions of the police, and other public prosecutors in subordinate positions, concerning criminal cases.

51.  Pursuant to sections 19 and 51, only evidence obtained, proved and assessed in accordance with this code may be used in determination of a case, and courts must freely and objectively assess the evidence and reach their own conclusions which are based on a full, complete and objective assessment of all the materials of the case and in accordance with law and justice. No evidence has any predetermined weight which would bind the court.

52.  Section 97 provides that defence counsel in a criminal case has the right to meet a suspect, an accused, or a defendant in private; to submit evidence; to lodge objections and submit requests; to participate in the questioning of a suspect and the charging and questioning of an accused, as well as in other investigative actions following a request raised by the suspect, accused or defence counsel; to participate in adjudication of a case; and to lodge complaints against decisions adopted by the entity in charge of an investigation, a prosecutor or a court.

53.  By virtue of section 151 a prosecutor shall question the accused without delay following the bringing of charges. If immediate questioning is impossible, a record shall be drawn up explaining the reasons for the delay.

54.  Section 220 sets out a procedure for lodging complaints against the activities of investigators, under which a suspect, accused persons and their representatives and defence counsel may submit a complaint to a prosecutor about the activities of investigators and others. Complaints shall be submitted directly to a prosecutor or to the person whose activities are the subject of the complaint. Complaints may be either written or oral. In the latter case the complaint shall be recorded by a prosecutor or an investigator and that record shall be signed by the complainant. An investigator shall forward the complaint, together with explanations, to a prosecutor within twenty-four hours.

Pursuant to section 221, a prosecutor shall decide on a complaint within three days following the date of reception and shall notify the complainant of the outcome. If a complaint is rejected the prosecutor shall notify the complainant of the reasons. An investigator or the complainant may appeal against the prosecutor’s decision to a higher-level prosecutor.

55.  Section 222 stated that complaints about a prosecutor’s activities are to be submitted to a prosecutor at a higher level, and are to be decided on in accordance with the procedures provided by sections 220 and 221.

56.  Under section 449, a judgment can be examined by the cassation court only if it is vitiated by a material infringement either of criminal law or the law of criminal procedure. Section 451 states, *inter alia*, that breaches of the provisions of the Code of Criminal Procedure, which, *inter alia*, affected or could have affected the lawfulness, reasoning and fairness of a judgment, are serious infringements of the Code of Criminal Procedure.

C.  The Law on the Prosecutor’s Office (*Prokuratūras likums*) as in force at the material time

57.  In accordance with section 15, a prosecutor shall supervise the execution of custodial sentences and the institutions in which individuals are detained as a result. Furthermore, section 16 provides that a prosecutor shall, in accordance with the procedures prescribed by law, carry out an investigation if the information received concerns a crime or a violation of the rights and lawful interests of, *inter alia,* detainees. Paragraph 2 states that a prosecutor has the duty to take measures required for the protection of rights and lawful interests of persons and the State, if the examination of the facts regarding the violation of law is assigned by, *inter alia*, the President of the Republic.

According to section 17, when examining an application in accordance with the law, a prosecutor has the right: to request and to receive regulatory enactments, documents and other information from administrative authorities ... to order heads and other officials of ... institutions and organisations to carry out examinations, audits and expert examinations and to submit opinions, as well as to provide the assistance of specialists in examinations carried out by the prosecutor; to summon a person and to receive from him/her explanations as to breaches of the law ... When taking a decision on a breach of law, the prosecutor, depending on the nature of the breach, has the duty ... to bring an action to the court, to initiate a criminal investigation or to initiate [proceedings on] administrative or disciplinary liability.

By virtue of section 20, if it is necessary to bring an illegal activity to a halt, to rectify the consequences of such activity or to prevent a violation, a prosecutor shall submit a submission in writing to the relevant undertaking, authority, organisation, official, or person.

THE LAW

I.  PRELIMINARY OBJECTIONS

A.  The second applicant’s “victim” status

58.  The Court shall first decide whether the second applicant is to be considered a “victim” for the purposes of the Convention. It reiterates that in order for an applicant to be able to claimto be a victim of a violation of the Convention, there must be a sufficiently direct link between the applicant and the harm which they consider they have sustained on account of the alleged violation (see, amongst others, *Gorraiz Lizarraga and Others v. Spain*, no. 62543/00, § 35, ECHR 2004‑III).

59.  The present application in essence raises issues in connection with the ill-treatment of the first applicant and the subsequent adjudication of his criminal case; this part of the complaint was communicated to the Government. Without prejudice to the fact that the second applicant as a family member might have to a certain extent been concerned with the above events, the Court does not find that she was directly affected by the alleged violations (see also *Poghosyan and Baghdasaryan v. Armenia*, no. 22999/06, § 32, ECHR 2012; contrast *Renolde v. France*, no. 5608/05, § 69, ECHR 2008 (extracts)). As a consequence, the Court considers that the application, as far as it concerns the second applicant, is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4 of the Convention. Subsequently, the Court shall limit its examination of the application only in so far as it concerns the first applicant (or “the applicant” in the text).

B.  Other preliminary objections raised by the Government under Articles 34 and 35 of the Convention and Rule 47ˡ of the Rules of the Court

60.  The Government raised two other preliminary objections. Namely, the abuse of the right of an individual application and, secondly, that the complaint was unsubstantiated and therefore it should be understood that the applicant had lost interest in pursuing the application before the Court.

1.  Abuse of the right of individual petition

61.  The Government pointed out that the case file did not contain an application form and that in any case the first applicant had failed to sign any of the letters the second applicant had forwarded to the Court.

62.  The applicant contested the Government’s allegations by providing copies of two application forms dated 3 March 2005. The Government in response raised doubts as to the credibility of the above application forms and maintained that the applicants were attempting to mislead the Court.

63.  Addressing the Government’s allegation that the applicant was abusing the right of individual petition, the Court confirms that the case file contains two application forms, one signed by the first applicant and the other signed by the second applicant, dated 3 March 2005 and received at the Court on 16 March 2005. It notes that the letter of 13 October 2011 by which the Registry informed the Government that the above application was pending before it clearly stated that an application form and other documents had been attached to the above communication. The above is proved by the information acquired from the secure internet site, which indicates that all the documents were sent to the Government on 13 October 2011 at 14:29:28. As a result of its preliminary assessment as to the victim status of the second applicant (see paragraphs - above), only the application form submitted by the first applicant was sent to the Government. The Court observes that given the time allocated to the Government to submit their written observations, the latter could have requested the Court to resubmit any documents which they had not received from the list indicated in the letter of communication. Besides, after receiving a copy of the original application form from the applicant’s representative, the Government could have asked the Court to confirm whether those documents were in the case file.

64.  The Court accordingly dismisses the Government’s objection.

2.  Whether the applicant had lost interest in the application

65.  The Government further pointed out that even though the applicant had had at least seven years to complete the case file pending before the Court and thereby facilitate both the Court’s work in processing the complaint and the Government’s work in drafting its observations, the applicant had not provided the Court with the necessary evidence relevant to his complaints. According to the information the law-enforcement authorities had provided to the Government, all the documents relating to the applicant’s detention in the police temporary detention facility in 1997 and also those relating to the investigation of the 2001 complaint to the State Police have been destroyed, as the five-year time-limit for storing correspondence had expired. Similarly, the records of detained and convicted persons, including their personal correspondence and replies, were kept with the Prisons Administration for two years following their release from detention. The statutory limit for the keeping of files at the Prosecutor General’s Office was five years, and the applicant’s 2001 file had been destroyed in 2011. The Government contended that it was beyond the national authorities’ capacity to retain official documents for an indefinite period of time.

66.  The applicant’s representative noted that the majority of the documents had not been kept by the applicant. Copies of certain documents were attached to his written observations.

67.  The Court observes that the applicant was detained on 20 June 1997 and admitted to the temporary detention unit of Rīga Main police station, from which he was transferred to the Central Prison on 25 June 1997 and then released on 2 April 2002. According to the information on the archival periods the records in relation to his detention in Rīga Main police station and the correspondence in the Central Prison had been destroyed in 2002 and 2004 respectively, despite the fact that on 25 June 2001 the refusal to institute criminal proceedings had been adopted only at the police level and was therefore open to appeal. The Court further observes that the applicant introduced his complaint with the Court in September 2004. As a consequence, the applicant could not be blamed for his failure to provide the missing documents in circumstances where, owing to the limited periods of retention in archives, pertinent information concerning the applicant’s complaint had been destroyed by the State authorities prior to the date the applicant submitted his complaint to the Court. Moreover, it is clear from the case file that the applicant had provided pertinent documents, such as the decision by which the police had refused to institute criminal proceedings, part of the correspondence with the police and the prosecutors, and copies of the national courts’ decisions.

68.  In the light of the above the Court dismisses the Government’s objection.

II.  ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

69.  The applicant complained that on 20 June 1997 he was ill-treated by police officers in order to make him confess to the charges brought against him. In essence the applicant also complained that the investigation of the ill-treatment was ineffective. His complaints fall under Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

A.  The Court’s jurisdiction *ratione temporis*

70.  The Court notes that although the Government have not raised an objection to the Court’s competence *ratione temporis*, the Court will address this issue of its own motion (see *Blečić v. Croatia* [GC], no. 59532/00, § 67, ECHR 2006‑III).

71.  The Court reiterates that its temporal jurisdiction applies only to acts and/or omissions which took place after the Convention entered into force in respect of the respondent State. However, the procedural obligation to carry out an effective investigation under Article 3, similarly as under Article 2 of the Convention, has evolved into a separate and autonomous duty capable of binding the State, even when the impugned acts took place before the critical date (see, *mutatis mutandis*, *Šilih v. Slovenia* [GC], no. 71463/01, §§ 153-159, 9 April 2009, more recently, *Tuna v. Turkey*, no. 22339/03, § 58, 19 January 2010 and *P.M. v. Bulgaria*, no. 49669/07, § 56, 24 January 2012).This responsibility is not, however, open-ended, and in order to fall within the Court’s temporal jurisdiction a significant proportion of the procedural steps ought to have been carried out after the critical date (see *Šilih,* cited above, § 163).

72.  In this particular case the Court observes that the alleged ill-treatment took place on 20 June 1997, whereas the Convention entered into force in respect of Latvia on 27 June 1997. The Court concludes that the complaint concerning the above ill-treatment falls outside the Court’s jurisdiction *ratione temporis*.

73.  The Court further notes that since the alleged ill-treatment occurred a week before the entry into force of the Convention in respect of Latvia and the entire investigation as well as the respective criminal proceedings took place after the critical date, the procedural complaint under Article 3 falls within the Court’s temporal jurisdiction.

B.  Other inadmissibility grounds

74.  The Government stated that the applicant had failed to comply with the six-month rule, and had also failed to exhaust domestic remedies.

1.  Exhaustion of domestic remedies

75.  The Government stated that the applicant had not availed himself of any of the relevant domestic remedies, namely recourse to the head of the respective State Police department (see paragraph 47 above) and, after making representation to the State Police, to the Office of the Prosecutor, which was an institution with the direct responsibility for the supervision and investigation of complaints regarding ill-treatment committed by police officers (see paragraph 48 above). He could have lodged a complaint with the responsible prosecutor in the criminal proceedings (see paragraph 54 above). They emphasised that the first complaint of ill-treatment was submitted to the Chancery of the President of the Republic four years after the alleged events. The Government further submitted that the applicant had still not exhausted all the domestic remedies available, specifically that he had not challenged the decision of 18 June 2004 with the Prosecutor General (see paragraph above).

76.  The applicant maintained that he had told the prosecutor about his ill-treatment and that the latter was therefore required to carry out an investigation, even without receiving an official complaint from the applicant.

77.  The Court reiterates that Article 35 § 1 of the Convention must be applied with some degree of flexibility and without excessive formalism, and that it is normally required that the complaints intended to be brought before the Court should have been made to national authorities at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law (see, amongst other authorities, *Cardot v. France*, 19 March 1991, § 34, Series A no. 200). Moreover, it is essential to have regard to the circumstances of the individual case, and the Court must take proper account not only of the existence of formal remedies in the legal system of the State concerned, but also of the general context in which they operate, as well as the personal circumstances of the applicant, and it must then examine whether, in all the circumstances of the case, the applicant did everything that could reasonably be expected of him or her to exhaust domestic remedies (see *İlhan v. Turkey* [GC], no. 22277/93, § 59, ECHR 2000‑VII).

78.  At the outset the Court notes that the parties dispute the exact date and authority to whose attention the first prima facie complaint of ill-treatment has been brought. Since the above facts are pertinent and closely related to the analysis of the effectiveness of the investigation under Article 3, the Court will address this factual discrepancy in more detail below (see paragraph 98 below).

79.  Turning next to the Government’s argument that the applicant has not used any of the avenues available for him to seek redress for his complaint, the Court observes that it is not disputed that by March 2001 at the latest the State authorities had become aware of the applicant’s allegations by virtue of a procedure explicitly provided for by section 16 of the Law on the Prosecutor’s Office (see paragraph 57 above). As a result, a preliminary investigation was carried out and its outcome communicated to the prosecutor’s office in June 2001 (see paragraph 37 above). In these circumstances the Court considers that the applicant has in substance availed himself of a remedy that was effective and sufficient, and therefore he was not required to exhaust other alternative remedies which were no more likely to be successful (see, among other authorities, *Nada v. Switzerland* [GC], no. 10593/08, § 142, 12 September 2012).

80.  As concerns the possibility to make a complaint within the State police system, the Court notes that in *Jasinskis v. Latvia*, no. 45744/08, § 75, 21 December 2010, it concluded that an inquiry carried out by the same authority as the one accused of the wrongdoing did not comply with the minimum standards of an independent investigation. In this relation the Court observes that the co-defendant’s attempts to use the above avenue did not reveal its efficiency (see paragraph 16 above).

81.  Finally, in response to the Government’s objection that the applicant had failed to appeal to the Prosecutor General against the refusal to institute criminal proceedings, the Court observes that the initial decision refusing to institute criminal proceedings was twice reviewed by a supervising prosecutor who, in the last decision, informed the applicant that there were no practical means of carrying out a further investigation (see paragraph 41 above). Noting the wording of the above decision, the Court is of the opinion that another appeal within the hierarchy of the Prosecutor General’s Office would have no prospect of success, and therefore the applicant could not be asked to try that remedy (see, to the contrary, *Reif v. Greece, no. 21782/93,* 28 June 1995).

82.  The Court therefore dismisses the Government’s objection.

2.  Six-month rule

83.  The Government pointed out that four years had passed between the alleged events on 20 June 1997 and the date when the State police first received the complaint of ill-treatment. Moreover, although the refusal to institute criminal proceedings was adopted in 2001 the applicant waited until 2004 to appeal against the negative decision. According to the Government, the latter complaint had the sole purpose of restarting the six-month time-limit. Relying on the principles established in *Varnava and Others v. Turkey* [GC], nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, § 165, ECHR 2009, the Government reiterated that the Court may reject an application as being introduced out of time “where there has been excessive or unexplained delay on the part of the applicant”.

84.  The applicants argued that the six-month time-limit started to run on 12 March 2004, thus from the adoption of the final judgments in his case (see paragraph 32 above).

85.  The Court reiterates that the six-month rule serves the interest of legal certainty as a value in itself (see *Walker v. the United Kingdom* (dec.), no. 34979/97, ECHR 2000-I) and that the running of the six-month period normally starts from the final decision constituting exhaustion of domestic remedies, or, when the remedies are unavailable or ineffective, it runs from the day of the act or the measure, or the day it became known to the applicant (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 54, 29 June 2012).

86.  According to the Court’s case-law the reopening of proceedings does not restart the six-month time-limit unless such an appeal turns out to be successful (see *Korkmaz v. Turkey* (dec.), no. 42576/98, 17 January 2006, *Gasparyan v. Armenia (no. 1)*, no. 35944/03, § 30, 13 January 2009).

87.  In the particular case the Court observes that following the complaint by the applicant’s mother, in 2004 a supervising prosecutor identified deficiencies and quashed the decision by which the State police had refused to institute criminal proceedings in connection with the alleged ill-treatment. There is thus no evidence to conclude that there were no grounds for restarting the running of the six-month time-limit. The Court also considers that in the particular circumstances it is not appropriate to apply the principles established in relation to a specific type of case, namely cases involving disappearances, as referred to by the Government.

88.  The Court accordingly dismisses the Government’s objection.

3.  Conclusion

89.  The complaint under the procedural limb of Article 3 is not manifestly ill-founded within the meaning of Article 35 §§ 1, 3 and 4 of the Convention and it is not inadmissible on any other grounds. It must therefore be declared admissible.

C.  Merits

1.  Arguments of the parties

90.  The parties submitted their observations under the substantive and procedural limbs of Article 3. The Government submitted that the police officers had used force against the applicant only when he was being arrested and in order to overcome his resistance, whereas the applicant contended that force was used against him both when he was being arrested and when he was being questioned at the police station.

91.  In relation to the procedural limb, the Government reiterated their arguments that the applicant had caused unjustified delays of more than four and three years respectively in lodging the original complaints and subsequent appeals with the national authorities. The Government further asserted that upon receiving the complaint in 2001 the authorities had done everything possible to establish what had happened, namely by causing a non-subordinate and independent police body to carry out a prompt and thorough investigation which involved analysing the applicant’s statements concerning his ill-treatment and allegedly unsuccessful complaints to domestic authorities, and also by acquiring statements from a police officer and a forensic expert. They also contended that the prosecutor’s office was independent, impartial and prompt in carrying out its supervisory functions.

92.   The applicant maintained that soon after his arrest he had verbally informed the public prosecutor that there had been disproportionate use of force during his arrest and questioning, and that the prosecutor, acting by virtue of section 16 of the Law on the Prosecutor’s Office, was obliged to conduct an investigation even without receiving a written complaint.

93.  The Government in response contested the above allegations by noting that immediately after the applicant’s arrest, on 20 June 1997, police officers had drawn up a report on the events at the time the applicant was taken into custody, and that that report, as well as the police officer’s statements, had been used both during the police investigation and before the court.

2.  The Court’s assessment

94.  Leaving aside for a moment the parties’ dispute as to the exact date the applicant first communicated his complaint of ill-treatment to the State authorities, the Court observes that the Government do not dispute that on 20 June 1997 the applicant sustained injuries documented by the medical report of 26 June 1997, and that his allegations of ill-treatment should be considered as raising an arguable claim which triggered the national authorities’ obligation to investigate the origins of those injuries. As concluded above, it is outside the Court’s jurisdiction to examine the Government’s allegations that proportionate physical force was used against the applicant at the time of his arrest and not during his questioning (see paragraphs - above), the Court will therefore proceed with the examination of the procedural obligations with which the State authorities are required to comply in cases where an arguable allegation of ill-treatment has been brought under Article 3 of the Convention.

95.  The Court reiterates that according to its constant case-law, the use of force during arrest, even if resulting in injury, may fall outside the scope of Article 3 if the use of force had been indispensable and resulted from the conduct of the applicant (see, among other authorities, *Klaas v. Germany*, 22 September 1993, § 30 Series A no. 269). However,where an individual is taken into police custody in good health but is found to be injured at the time of release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused, failing which a clear issue arises under Article 3 of the Convention (see *Selmouni v. France* [GC], no. 25803/94, § 87, ECHR 1999‑V). Such aninvestigation, as under Article 2, should be capable of leading to the identification and, if appropriate, punishment of those responsible, and should reflect a serious effort on the part of the authorities to discover what really occurred (see *Poltoratskiy v. Ukraine*,no. 38812/97, § 125, ECHR 2003‑V). According to the Court’s case-law, the investigation should be independent, impartial, prompt and subject to public scrutiny (see *Batı and Others v. Turkey*, nos. 33097/96 and 57834/00, §§ 135-136, ECHR 2004‑IV (extracts)) and involve external authorities (see *Poltoratskiy*, cited above, § 126). For an investigation to be considered effective, the authorities must, among other tasks, take reasonable steps to secure evidence concerning the incident, including a detailed statement concerning the allegations from the alleged victim, eyewitness testimony, forensic evidence and, where appropriate, additional medical reports (see *Batı and Others*, cited above, § 134).

96.  The Court will first examine whether the authorities reacted diligently and promptly to the report of ill-treatment received from the applicant. This issue is closely related to the disagreement between the parties as regards the time when the State authorities first became aware of the applicant’s complaints. The Court will at the outset address this disagreement. It is relevant in this regard to be aware, in response to the Government’s argument that relevant documents were unavailable because the period of retention in the archives had expired, that the Court adopts conclusions that are, in its view, supported by a free assessment of all evidence, including such inferences as may flow from the facts and the parties’ submissions (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 147, ECHR 2005‑VII) and that proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Ireland v. the United Kingdom*, 18 January 1978, § 161, Series A no. 25).

97.  Turning to the particular case, the Court refers to the Government’s argument that recourse to the prosecutor was to be considered an effective domestic remedy in this type of complaint (see paragraph above)*.* The Court notes in this regard that it has had an opportunity to analyse the effectiveness of the above remedy previously in several cases against Latvia in which the Court had emphasised the broad scope of the prosecutor’s powers to react when a report of an alleged offence is received (see, for example, *J.L. v. Latvia*, no. 23893/06, §§ 84-86, 17 April 2012). On several occasions the Court had, however, pointed out the prosecuting authorities’ ineffectiveness in exercising these powers in the particular circumstances of the case (see, in particular, *Timofejevi v. Latvia*, no. 45393/04, §§ 101-103, 11 December 2012, and *Vovruško v. Latvia*, no. 11065/02, §§ 47-48; 52-53, 11 December 2012).

98.  It appears from the case file of the particular case that as early as June and July 1997 the applicant brought to the prosecutor’s attention irregularities he stated he had been subjected to in the police station. In particular, he complained to the prosecutor of police coercion while he was being questioned in the Central Prison, and raised complaints in relation to his state of health (see paragraphs - above). Even assuming that the applicant’s statements as such might not be sufficient to trigger the application of measures prescribed by the Law on the Prosecutor’s Office, the Court considers that the applicant’s allegations about his health would have at least prompted the prosecutor to consult the applicant’s medical recordsdrawn up at the Central Prison, which contained information about the applicant’s injuries as well as the latter’s statements that the injuries had been caused by police ill-treatment (see paragraph above). It is very likely that the injuries the prison doctor recorded on 26 June 1997 were still visible during the prosecutor’s questioning four days later. Noting the prosecutor’s obligation not to remain passive when faced with injuries or allegations of injuries (see, *mutatis mutandis*, *Karabet and Others v. Ukraine*, nos. 38906/07 and 52025/07, §§ 272-273, 17 January 2013), the prosecutor had the opportunity to pose additional questions in this regard. The Court also notes that on various occasions the applicant made general representations of ill-treatmentalso during the trial, in the presence of a representative of the prosecutor’s office (see, in particular, paragraph 33 above).

99.  In view of the above the Court concludes that the prosecutor’s office had not exercised its powers with some degree of flexibility and without excessive formalism in reacting to the report, which should already have triggered an investigation in 1997 or at the latest in 1998.

100.  The Court will next address the Government’s argument that despite the passage of time from the date of the events, the police had carried out a thorough investigation in 2001. In this respect the Court observes that in 2004 the supervising prosecutors detected shortcomings in the investigation conducted by the State police in 2001, and the Court has no reason to depart from that conclusion (see *Karabet and Others,* cited above, § 275). The deficiencies, such as a failure to question the other three police officers who were involved in taking the applicant into custody, and the witness thereto (see paragraph 36 above), and the lack of any explanation as to the cause of the injuries to the applicant recorded after his arrest renders the investigation devoid of efficiency.

101.  As regards the effectiveness of the supervision carried out by the prosecutor’s office, the Court notes that as early as 2001 the Pre-trial Investigation Department of the Prosecutor General’s Office was informed that the decision on the refusal to institute criminal proceedings had been adopted (see paragraph above), whereas it was only in 2004 when, acting upon an explicit request from the applicant’s mother, the above department quashed the decision and sent it for supplementary investigation. The Court notes that the reluctance and omissions on the part of the supervising authorities to exercise their supervisory functions in 2001 when the decision was adopted contributed to the ineffectiveness of the investigation.

102.  The Court further observes that the applicant did not deny that it was only in January 2004 that the appeal against the decision of June 2001 was submitted, and that his only justification of his rather late appeal was fear of reprisals (see paragraph above). The Court notes in this respect that the decision of 25 June 2001 did not indicate the authority to which an appeal against the decision should be submitted, whereas the procedure provided by the Law of Police suggests that the decisions were to be appealed against within the State police system, therefore raising reasonable doubts as to the effectiveness and independence of the review. Even disregarding this uncertainty, the Court emphasises that at the latest in 1998 the applicant attempted to bring to the authorities’ attention his complaint of ill-treatment, and that therefore in these particular circumstances it would be unreasonable to expect that the applicant maintains confidence in these mechanisms, which would not provide a remedy for his grievances, especially taking into account the co-defendant’s failed attempts to attain an investigation of his alleged ill-treatment (see paragraph 16 above) as well as the Court’s findings in comparable situations (see paragraph 97 above).

103.  In connection with the supervision carried out by the Prosecutor General’s Office, which resulted in a new investigation of the alleged ill-treatment in 2004, the Court cannot disregard the fact that the applicant’s complaint was referred back to the same police officer who had been in charge of the complaint in 2001, thus raising arguable doubts as to the impartiality of the investigation. It also does not appear that the new investigation addressed the inconsistencies in the statements of the police officers. In particular, although the reports of 20 June 1997 drawn up by police officer A.E. did not mention use of force, and stated that the applicant had no visible injuries, when questioned several years later A.E. admitted that force had been used. Despite the irreparable deficiencies in the investigation carried out in 2001 which, as admitted by the prosecutor’s office, could not be supplemented with other evidence owing to the passage of time (see paragraph 41 above), there was no explicit recognition on the part of the supervising prosecutor that the allegations made by the applicant could not be properly investigated because of the ineffectiveness of the investigation carried out in 2001. Such an acknowledgment could be accompanied by action against the officials in charge of the omissions.

104.  The Court finds that the procedures available to the applicant to address his complaints of ill-treatment were superficial and lethargic. In the circumstances of the case the delays observed cannot exclusively be imputed to the applicant.

105.  The foregoing considerations are sufficient to enable the Court to conclude that the investigation of the applicant’s allegations of ill-treatment was not conducted in compliance with the requirements enshrined in Article 3 of the Convention.

There has accordingly been a violation of the procedural limb Article 3 of the Convention.

III.  ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION IN REGARD TO THE USE OF ALLEGEDLY UNLAWFULLY OBTAINED INCRIMINATORY STATEMENTS

106.  The applicant also complains in substance under Article 6 of the Convention that his guilt was established on the basis of a confession obtained in breach of Article 3 of the Convention.

107.  The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor is it inadmissible on any other grounds. It must therefore be declared admissible.

108.  The Government contested the applicant’s allegations, and contended that as he had not contested the findings of the internal investigation of 2001 the courts had no reason to exclude statements the applicant had made on 20 June 1997. They emphasised that the applicant had also made self-incriminating statements to the prosecutor during the later stages of the criminal proceedings and that during the trial he had had access to an effective defence through the assistance of counsel.

109.  The applicant maintained that he had been ill-treated on 20 June 1997 while being questioned by police.

110.  According to the Court’s case-law, Article 6 does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999‑I). The Court’s duty is limited to an assessment as to whether the proceedings as a whole, including the way in which the evidence was obtained, were fair, and involves an examination of the alleged “unlawfulness” (see *Allan v. the United Kingdom*, no. 48539/99, § 42, ECHR 2002‑IX). The Court has held that it is not required under Article 6 that the national courts should always prefer to rely on evidence given in open court, rather than other statements made by the same person in the course of criminal proceedings, not even when the two are in conflict (see, *mutatis mutandis,* *Doorson v. the Netherlands*, 26 March 1996, § 78, Reports of Judgments and Decisions 1996‑II). Nevertheless, in order to examine whether as a result of improper coercion such internationally protected standards as the right to silence and the right against self-incrimination have not been infringed, the Court looks, in particular, at the nature and degree of the compulsion, the existence of any relevant safeguards in the procedures, and the use to which any such material is put (see *Jalloh v. Germany* [GC], no. 54810/00, § 101, ECHR 2006‑IX). Moreover, particular considerations apply in respect of the use in criminal proceedings of evidence obtained in breach of Article 3 for the use of such evidence, secured as a result of a violation of one of the core and absolute rights guaranteed by the Convention, always raises serious issues as to the fairness of the proceedings, even if the admission of such evidence was not decisive in securing a conviction (see *Gäfgen v. Germany* [GC], no. 22978/05, §§ 165-166, ECHR 2010).

111.  Turning to the facts of the present case, the Court notes, first, that even though for lack of jurisdiction the Court is prevented from examining the circumstances surrounding the alleged ill-treatment (see paragraphs - above), it is not precluded from taking into consideration its findings in respect of the procedural obligation deriving from Article 3 of the Convention (see also *Harutyunyan v. Armenia*, no. 36549/03, § 64)., ECHR 2007‑III). Second, the Court notes that neither before the domestic authorities nor before the Court he complains about the lack of defence counsel during his first interrogations at the police office (see, to the contrary, *Salduz v. Turkey* [GC], no. 36391/02, ECHR 2008).

112.  By referring to its findings in relation to the procedural limb of Article 3 the Court establishes that during the trial the applicant, assisted by counsel, raised an arguable claim as far as it concerned his allegations that on 20 June 1997 at the police station a confession had been obtained from him under duress (see, to the contrary, *Igars v. Latvia* (dec.), no. 11682/03, 5 February 2013; §§ 84-85) and that the defence could effectively pursue this plea by questioning witnesses for the prosecution and allowing a witness for the defence to be called (see paragraph 30 above). Even though the national courts did not explicitly exclude from the criminal file the self-incriminatory statements obtained on 20 June 1997, there are clear indications that both the Rīga Centre District Court as well as the Rīga Regional Court had weighed critically his statements given on the impugned date (see paragraph  above). It could not be concluded from the national court’s decisions that in finding the applicant’s guilt the court had relied at all on the applicant’s disputed self-incriminatory statements given on 20 June 1997, whereasthe lower court’s decision, which was later upheld by the appellate court, relied explicitly on the applicant’s self-incriminatory statement he gave to the prosecutor on 7 July 1997, and confirmed on 20 August 1997. However, observing that there is no evidence and the applicant did not allege that the statements given to the prosecutor were made under coercion, and that he did not contest their credibility before the domestic court, the Court cannot conclude that his protection against self-incrimination has been infringed.

113.  There has accordingly been no violation of Article 6 § 1 of the Convention.

IV.  ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION REGARDING THE LENGTH OF THE CRIMINAL PROCEEDINGS

114.  The applicant complained that the length of the criminal proceedings had been incompatible with the “reasonable time” requirement laid down in Article 6 § 1 of the Convention, the relevant part of which reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

115.  The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor is it inadmissible on any other grounds. It must therefore be declared admissible.

116.  The Government admitted that there was a certain delay on the part of the domestic authorities, as the first hearing was held a year and one month after the case had been remitted for trial, but that this delay was remedied later, when hearings were scheduled at regular intervals. They argued that some delays in the criminal proceedings took place, as the national authorities had to adjust to a new legal situation. In addition, by relying on *Lavents v. Latvia*, no. 58442/00, 28 November 2002, the Government emphasised that the delays caused by the co-defendant’s illness could not be attributable to the authorities. They also noted that the applicant had been released from detention.

117.  The applicant argued that the various postponements had not been caused by the applicant, and that the time spent disputing jurisdiction was a result of a lack of professionalism on the part of the law-enforcement authorities.

118.  The period to be taken into consideration with respect to the criminal proceedings began on 20 June 1997 and ended on 12 March 2004. Observing that the Convention became applicable with respect to Latvia on 27 June 1997, the Court notes that the proceedings lasted nearly six years and nine months at three levels of jurisdiction.

119.  The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II).

120.  The Court observes that the criminal case was not complex and that it was referred to the court without excessive delay, however it took more than four and a half years before the lower court adopted a judgment, and at least two and a half years of that was attributable to the State authorities. In particular, as admitted by the Government, the first delay of about a year was caused by the authorities’ failure to schedule the first hearing (see paragraphs 18-19 above), whereas the returning of the criminal case to the Office of the Prosecutor (see paragraph 20 above) caused another delay of four months which was attributable to the authorities (see *Bragadireanu v. Romania*, no. 22088/04, § 120, 6 December 2007). A further delay of six months was caused by irregular scheduling of a hearing. The Court is of the opinion that a significant delay was caused by the dispute over the court’s jurisdiction (see paragraph above) and the Court reiterates in this respect that it is for the State to organise its judicial system in such a way as to enable its courts to comply with the requirements of the Convention (see, among other authorities, *Estrikh v. Latvia*, no. 73819/01, § 138, 18 January 2007). The Court also notes that the delay of four months in total was required by the applicant to enable him to pursue his defence rights, for which he could not be blamed (see, amongst others, *Svetlana Orlova v. Russia*, no. 4487/04, § 46, 30 July 2009). Even though the delays of about eighteen months in total (see paragraphs 23-24 above) were not attributable to either of the parties, and the appellate courts adjudicated the criminal case rather speedily (see paragraphs 29-32 above), the Court considers that the delays attributable to the State authorities in the adjudication of the above criminal proceedings have rendered the length of the criminal proceedings unreasonable.

121.  There has, therefore, been a violation of Article 6 § 1 of the Convention.

V.  OTHER ALLEGED VIOLATIONS OF THE CONVENTION

122.  Lastly, the applicant cited other complaints under Articles 3, 5 and 6 § 3 d) of the Convention.

123.  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 considers that the remainder of the application does not disclose any appearance of a violation of any of the above Articles of the Convention. It follows that these complaints are inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention

VI.  APPLICATION OF ARTICLE 41 OF THE CONVENTION

124.  Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A.  Damage

125.  The applicant claimed 10,000 euros (EUR) in compensation for non-pecuniary damage and at the same left the issue of the actual amount of compensation to be decided by the Court.

126.  The Government contended that the applicant had not demonstrated that he had incurred non-pecuniary damage and in any case, if applicable, the finding of a violation would itself constitute sufficient just satisfaction. Alternatively, the Government stated that any compensation should be awarded on an equitable basis, taking into account the severity of the violation, previous Court case-law and the socio-economic circumstances of the respondent State.

127.  Having regard to the nature of the violation found in the present case and deciding on an equitable basis, the Court awards the applicant EUR 5,000 in compensation for non-pecuniary damage.

B.  Default interest

128.  The Court considers it appropriate that the default interest rate 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.*Declares* the application inadmissible in so far as it was lodged by the second applicant;

2.  *Dismisses* the Government’s preliminary objections;

3.  *Declares* admissible the first applicant’s complaints concerning the ineffectiveness of the investigation of the alleged ill-treatment by police officers on 20 June 1997, and those concerning the use of allegedly unlawfully obtained confession, the length of the criminal proceedings, and the remainder of the application inadmissible;

4.  *Holds* that there has been a violation under the procedural limb of Article 3 of the Convention;

5.  *Holds* that there has been no violation under Article 6 of the Convention on account of the use of allegedly unlawfully obtained confession;

6.  *Holds* that there has been a violation of Article 6 of the Convention on account of the length of the criminal proceedings;

7.  *Holds*:

(a)  that the respondent State is to pay the first applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Latvian lati at the rate applicable at the date of settlement;

(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;

8.  *Dismisses* the remainder of the first applicant’s claim for just satisfaction.

Done in English, and notified in writing on 28 May 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos David Thór Björgvinsson  
 Registrar President