

## *Effects of National Decisions on International Tribunals*

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### **1. Scope and background of the present paper**

The effect of national decisions on international tribunals is, as a topic for a paper, broad and rather general. I am not a specialist in general public international law but a teacher of criminal law and procedure who happens to have worked some twenty years with the European Commission of Human Rights. I shall therefore not examine the effects of national decisions on the Permanent International Court of Justice, on the International Criminal Tribunal set up to prosecute war crimes and crimes against humanity perpetrated in former Yugoslavia and in Rwanda, or on any other international court or tribunal, with the exception of the European Court and Commission of Human Rights.

On the other hand, I shall not make any formal distinction between the Court and Commission as I do not think that such a differentiation would be justified - at any rate, both organs will soon be replaced by a single Court.

This paper will deal with the subject in three sections. The first will discuss questions arising when the Strasbourg organs examine the merits of an application which concerns a case already examined by the national judicial authorities. The second will focus on exhaustion of domestic remedies. Finally, the question will be asked as to what importance the interpretation of the European Convention of Human Rights by national courts and tribunals may have for the European Court and Commission.

### **2. National decisions as the object of scrutiny by an international tribunal**

The essential task of the European Court of Human Rights is to decide whether, in a specific case, there has been a violation of the Convention which can be imputed to one of the High Contracting Parties to the Convention. While the Commission is not competent to decide on the merits, it does produce a Report under Article 31 of the Convention which in fact reads like a judgment.

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<sup>1</sup> This report reflects the personal opinions of the author and does not in any way bind the Commission. The present version is a draft devoid of the usual references to case-law or scientific publications.

