



Forthcoming Grand Chamber judgment in a case concerning the imposition on a person considered dangerous of a measure entailing special police supervision

The European Court of Human Rights will be delivering a **Grand Chamber** judgment¹ in the case of **de Tommaso v. Italy** (application no. 43395/09) at a public hearing on 23 February 2017 at 10.30 a.m. in the Human Rights Building, Strasbourg.

The case concerns the imposition on a person considered dangerous of a measure entailing special police supervision, together with a two-year compulsory residence order.

Principal facts and complaints

The applicant, Angelo de Tommaso, is an Italian national who was born in 1963 and lives in Bari.

The measure entailing special police supervision, imposed on the applicant by the Bari District Court in a decision of 11 April 2008, was proposed for the following reason: bearing in mind his previous convictions for drug trafficking, escaping detention and unlawful possession of weapons, the applicant was associated with criminals and thus considered dangerous. The court found that the applicant had “active” criminal tendencies, and there was also evidence to suggest that he had derived most of his means of subsistence from criminal activity. In addition, he had persisted in his criminal conduct, having been prosecuted for breaches of the terms of his supervision order committed on 25 April 2007 and 29 April 2007.

The measure of special supervision entailed certain obligations for the applicant, including: reporting once a week to the police, looking for work within a month, living in Bari, not associating with persons who had a criminal record and were subject to preventive or security measures, not returning home later than 10 p.m. or leaving home before 7 a.m., not keeping or carrying any weapons, not going to bars or nightclubs, not attending public meetings and not using mobile phones or radio communication devices.

On 31 July 2008 the Bari prefecture revoked the applicant’s driving licence.

In a decision of 28 January 2009 on an appeal by Mr de Tommaso, the Bari Court of Appeal observed that the offence of which he had been convicted was not especially serious and dated back to 2004, that he had not committed any further offences, and that the fact that he had associated with people with criminal records was not sufficient to conclude that he was dangerous. Furthermore, the alleged breaches of the terms of the applicant’s supervision order concerned a different person, who shared his first name and surname but had been born in 1973. The Court of Appeal also found that the District Court had omitted to assess the impact of the rehabilitation purpose of the sentence on Mr de Tommaso’s personality. Accordingly, the Court of Appeal allowed his appeal and set aside the impugned measure.

Relying on Article 5 (right to liberty and security) of the European Convention of Human Rights and Article 2 of Protocol No. 4 (freedom of movement) to the Convention, Mr de Tommaso submitted that the preventive measure imposed on him had been arbitrary and applicable for an excessive

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

duration, seeing that the Court of Appeal gave its ruling seven months after he had lodged his appeal, whereas the law laid down a time-limit of 30 days. The applicant further complained, under Article 6 § 1 (right to a fair hearing), that the proceedings before the divisions of the District Court and the Court of Appeal specialising in the application of preventive measures had not taken place in public. Also under Article 6 § 1, the applicant alleged that the proceedings resulting in the imposition of preventive measures had been unfair in various respects. Lastly, Mr de Tommaso complained that Italian law had not afforded him an effective remedy in respect of his complaint under Article 5, particularly in that it had not provided for the right to compensation.

Procedure

The application was lodged with the European Court of Human Rights on 28 July 2009. On 25 November 2014 the Chamber relinquished jurisdiction in favour of the Grand Chamber. A hearing was held on 20 May 2015.

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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.