

In the Angelucci case*,

The European Court of Human Rights, sitting, in accordance with Article 43 (art. 43) of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention")** and the relevant provisions of the Rules of Court***, as a Chamber composed of the following judges:

Mr R. Ryssdal, President,
Mr F. Matscher,
Mr L.-E. Pettiti,
Sir Vincent Evans,
Mr C. Russo,
Mr J. De Meyer,
Mr N. Valticos,
Mr A.N. Loizou,
Mr J.M. Morenilla,

and also of Mr M.-A. Eissen, Registrar, and Mr H. Petzold, Deputy Registrar,

Having deliberated in private on 2 October 1990 and 24 January 1991,

Delivers the following judgment, which was adopted on the last-mentioned date:

Notes by the Registrar

* The case is numbered 13/1990/204/264. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

** As amended by Article 11 of Protocol No. 8 (P8-11), which came into force on 1 January 1990.

*** The amendments to the Rules of Court which came into force on 1 April 1989 are applicable to this case.

PROCEDURE

1. The case was referred to the Court on 16 February 1990 by the European Commission of Human Rights ("the Commission"), within the three-month period laid down by Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 12666/87) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mr Roberto Angelucci, on 10 December 1986.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) and to the declaration whereby Italy recognised the compulsory jurisdiction of the Court (Article 46) (art. 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 6 para. 1 (art. 6-1).

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of the Rules of Court, the applicant stated that he wished to take part in the proceedings and designated the lawyer who would represent him (Rule 30).

3. On 21 February 1990 the President of the Court decided that,

pursuant to Rule 21 para. 6 and in the interests of the proper administration of justice, this case and the cases of Motta, Manzoni, Pugliese (I), Alimena, Frau, Ficara, Viezzer, Maj, Girolami, Ferraro, Triggiani, Mori, Colacioppo and Adiletta and Others* should be heard by the same Chamber.

* Cases of Motta (4/1990/195/255) Manzoni (7/1990/198/258), Pugliese(I) (8/1990/199/259), Alimena (9/1990/200/260), Frau (10/1990/201/261), Ficara (11/1990/202/262), Viezzer (12/1990/203/263), Maj (14/1990/205/265), Girolami (15/1990/206/266), Ferraro (16/1990/207/267), Triggiani (17/1990/208/268), Mori (18/1990/209/269), Colacioppo (19/1990/210/270), Adiletta and Others (20/1990/211/271-273)

4. The Chamber to be constituted for this purpose included ex officio Mr C. Russo, the elected judge of Italian nationality (Article 43 of the Convention) (art. 43), and Mr R. Ryssdal, the President of the Court (Rule 21 para. 3 (b)). On 26 March 1990, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr F. Matscher, Mr L.-E. Pettiti, Sir Vincent Evans, Mr J. De Meyer, Mr N. Valticos, Mr A.N. Loizou and Mr J.M. Morenilla (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43).

5. Mr Ryssdal assumed the office of President of the Chamber (Rule 21 para. 5) and, through the Registrar, consulted the Agent of the Italian Government ("the Government"), the Delegate of the Commission and the applicant's lawyer on the need for a written procedure (Rule 37 para. 1). In accordance with the order made in consequence, the Registrar received the applicant's memorial on 26 June 1990 and the Government's memorial on 31 July. By a letter received on 31 August, the Secretary to the Commission informed the Registrar that the Delegate did not consider it necessary to submit observations in writing.

6. On 29 August 1990 the Chamber decided to dispense with a hearing, having found that the conditions for such derogation from the usual procedure were satisfied (Rules 26 and 38).

7. On 31 August 1990 the Commission produced the file on the proceedings before it, as requested by the Registrar on the President's instructions.

8. On 3 and 25 October, respectively, the registry received the observations of the Commission and the Government on the applicant's claims for just satisfaction.

AS TO THE FACTS

9. Mr Roberto Angelucci, an Italian national, resides in Rome. He is a businessman. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 13-17 of its report, see paragraph 11 below):

"13. The applicant was stopped on the public highway during a police drugs raid carried out in August 1975. He states that he was taken to the police station. He claims that a search was carried out at his home by the police without the prior authorisation of the judicial authorities. Nothing was found and the applicant was released the same day. The Government have maintained that there is no indication in any document in the file that the applicant was arrested or that a search was carried out at his home.

A subsequent police report dated 5 August 1975 reported the applicant and others to the Rome public prosecutor's office for aggravated criminal association and drug trafficking. A file was opened by the

public prosecutor's office under file No. 9773/75 A.

14. On 14 August 1975, the public prosecutor's office asked for full details of the applicant's civil status and on 3 December 1977 it further requested a copy of his police record.

15. On 10 May 1978, the applicant appointed a defence lawyer. On 27 October 1978, the applicant's defence lawyer filed the following application with the public prosecutor's office: 'in view of the fact that since 1975 proceedings (No. 9773/75 A) relating to a serious charge have been pending against my client, that the latter is totally unconnected with the offences and became involved in a police raid when he was in his car, that the charges against him have caused and continue to cause him serious prejudice, I request at the very least that you question him, as he will be able to provide you with all the necessary clarifications on the offences of which he is accused'.

16. On 28 November 1980, the public prosecutor's office transferred the file to the investigating judge and applied for proceedings against the applicant for criminal association and drug trafficking. An investigation was opened under ordinary procedure and the case entered on the investigating judge's register under no. 3175/80 A. On 3 December 1980, the investigation was entrusted to Investigation Section X at the Rome District Court; it was subsequently transferred to Section III. On 13 February 1981, the applicant requested unsuccessfully to be questioned by the investigating judge.

17. The summons served on the applicant was dated 11 January 1986. The applicant was questioned for the first time by the investigating judge on 28 January 1986 following the summons issued by the latter. After that interrogation and without any further investigative measure being performed, he was discharged on 16 July 1986 following submissions by the public prosecutor's office. In these submissions, it was stated that the applicant, together with certain co-defendants, had been prosecuted because he had been mentioned in the police report of 5 August 1975 as a 'customer of the Via delle Noci café' but that no other evidence had been brought against him."

PROCEEDINGS BEFORE THE COMMISSION

10. In his application of 10 December 1986 to the Commission (no. 12666/87) Mr Angelucci complained of the length of the proceedings; he relied on Article 6 para. 1 (art. 6-1) of the Convention.

11. On 5 September 1989 the Commission declared the application admissible. In its report of 13 December 1989 (Article 31) (art. 31), it expressed the unanimous opinion that there had been a violation of Article 6 para. 1 (art. 6-1). The full text of the Commission's opinion and of the separate opinion contained in the report is reproduced as an annex to this judgment*.

* Note by the Registrar: For practical reasons this annex will appear only with the printed version of the judgment (volume 196-C of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

AS TO THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 para. 1 (art. 6-1)

12. The applicant claimed that his case had not been examined within a "reasonable time" as required under Article 6 para. 1 (art. 6-1) of the Convention, according to which:

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

The Government disputed this view, whereas the Commission subscribed thereto.

13. The period to be taken into consideration began, at the latest, on 10 May 1978, when the applicant appointed defence counsel. It ended, at the earliest, on 16 July 1986, with the pronouncement that there was no case to answer and, at the latest, on 19 July 1986, when the time-limit for an appeal by the prosecuting authorities against that pronouncement expired (Article 199 of the Code of Criminal Procedure).

14. The participants in the proceedings presented argument as to the way in which the various criteria employed by the Court in this context - such as the degree of complexity of the case, the conduct of the applicant and that of the competent authorities - should apply in the present case.

15. Article 6 para. 1 (art. 6-1) of the Convention guarantees to everyone who is the object of criminal proceedings the right to a final decision within a reasonable time on the charge against him.

The Court points out that, under its case-law on the subject, the reasonableness of the length of proceedings is to be assessed in the light of the particular circumstances of the case. In this instance the circumstances call for an overall assessment (see, *mutatis mutandis*, the Obermeier judgment of 28 June 1990, Series A no. 179, p. 23, para. 72).

The case was undoubtedly of some complexity owing to the number of accused, but the Court notes that there were very long periods of inactivity in the proceedings, at least as far as the applicant was concerned, and that he did nothing to slow down their progress. It follows that the Court cannot regard as "reasonable" in the instant case a lapse of time of at least eight years and two months.

There has therefore been a violation of Article 6 para. 1 (art. 6-1).

II. APPLICATION OF ARTICLE 50 (art. 50)

16. Under Article 50 (art. 50),

"If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

Mr Angelucci sought 50,000,000 Italian lire for damage and in respect of costs and expenses.

17. According to the Commission, these claims did not appear at first sight excessive but it considered that the applicant should provide more detailed information.

The Government took the view that at the most it would be appropriate, if a violation were to be found, to award a modest sum for non-pecuniary damage.

18. The evidence does not show that the applicant suffered pecuniary damage deriving from the violation of Article 6 para. 1 (art. 6-1). On the other hand, he must have sustained a degree of

non-pecuniary damage and he incurred costs and expenses before the Convention organs. Making an assessment on an equitable basis, the Court awards him a total of 30,000,000 lire.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that there has been a violation of Article 6 para. 1 (art. 6-1) of the Convention;
2. Holds that the respondent State is to pay to Mr Angelucci 30,000,000 (thirty million) Italian lire for non-pecuniary damage and for costs and expenses;
3. Dismisses the remainder of the claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 19 February 1991.

Signed: Rolv RYSSDAL
President

Signed: Marc-André EISSEN
Registrar