In the case of Arena v. Italy*,

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 B. Walsh,
Mr C. Russo,
Mr A. Spielmann,
Mr N. Valticos,
Mr A.N. Loizou,
Mr J.M. Morenilla,
Mr F. Bigi,

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

Having deliberated in private on 30 October 1991 and 24 January 1992,

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

Notes by the Registrar

* The case is numbered 42/1991/294/365. 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.

PROCEDURE

1. The case was referred to the Court on 8 March 1991 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. 13261/87) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mr Carlo Arena, on 10 September 1987.

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 23 April 1991 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 Diana, Ridi,

Casciaroli, Manieri, Mastrantonio, Idrocalce S.r.l., Owners' Services Ltd, Cardarelli, Golino, Taiuti, Maciariello, Manifattura FL, Steffano, Ruotolo, Vorrasi, Cappello, G. v. Italy, Caffè Roversi S.p.a., Andreucci, Gana, Barbagallo, Cifola, Pandolfelli and Palumbo, Pierazzini, Tusa, Cooperativa Parco Cuma, Serrentino, Cormio, Lorenzi, Bernardini and Gritti and Tumminelli* should be heard by the same Chamber.

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* Cases nos. 3/1991/255/326 to 13/1991/265/336; 15/1991/267/338; 16/1991/268/339; 18/1991/270/341; 20/1991/272/343; 22/1991/274/345; 24/1991/276/347; 25/1991/277/348; 33/1991/285/356; 36/1991/288/359; 38/1991/290/361; 40/1991/292/363; 41/1991/293/364; 43/1991/295/366; 44/1991/296/367; 50/1991/302/373; 51/1991/303/374; 58/1991/310/381; 59/1991/311/382; 61/1991/313/384

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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 the same day, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr F. Matscher, Mr J. Pinheiro Farinha, Sir Vincent Evans, Mr A. Spielmann, Mr I. Foighel, Mr J.M. Morenilla and Mr F. Bigi (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43).

Subsequently, Mr B. Walsh, A.N. Loizou and Mr N. Valticos, substitute judges, replaced respectively Mr Pinheiro Farinha and Sir Vincent Evans, who had both resigned and whose successors had taken up their duties before the deliberations held on 30 October, and Mr Foighel, who was unable to take part in the further consideration of the case (Rules 2 para. 3, 22 para. 1 and 24 para. 1).

5. Mr Ryssdal assumed the office of President of the Chamber (Rule 21 para. 5) and, through the Deputy Registrar, consulted the Agent of the Italian Government ("the Government"), the Delegate of the Commission and the applicant's lawyer on the organisation of the proceedings (Rules 37 para. 1 and 38). In accordance with the order made in consequence, the Registrar received the Government's memorial on 16 July 1991 and the memorial of the applicant - whom the President had authorised to use the Italian language (Rule 27 para. 3) - on 24 July. By a letter received on 22 August, the Secretary to the Commission informed the Registrar that the Delegate did not consider it necessary to reply thereto.

6. On 28 June 1991 the Chamber had 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 28 August the Commission produced the file on the proceedings before it, as requested by the Registrar on the President's instructions.

8. On 10 October and 5 November, respectively, the Government and the Commission filed their observations on the applicant's claims for just satisfaction (Article 50 of the Convention) (art. 50).

AS TO THE FACTS

9. Mr Carlo Arena is an Italian national and resides in Rome. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 16-20 of its report):

"16. On 22 March 1982 the applicant was involved in a

traffic accident as passenger on a Mr B.'s motorcycle, which caused the accident.

17. On 20 March 1984 the applicant brought an action for damages in the Rome District Court against Mr B. and the X insurance company, claiming compensation for the damage arising from the aforementioned accident.

18. The investigation opened at the hearing of 12 May 1984, when the investigating judge, after finding that the defendants had omitted to enter a formal reply to the summons, called for a medical opinion. The expert appointed was sworn in at the hearing of 23 January 1985. On 12 March 1985 the opinion was lodged with the registry. The next hearing took place on 26 September 1985. The applicant, who was not present at the hearing of 29 January 1986, made his final submissions at the hearing of 19 June 1986, and the investigating judge fixed the hearing before the competent court chamber for 5 February 1988. On that date, judgment was reserved.

19. On 12 February 1988 the District Court declared the summons null and void on the ground of a procedural defect. The text of the decision was lodged with the registry on 16 April 1988.

20. It does not appear that the decision was appealed against or that the applicant took out another summons."

10. By a letter of 28 September 1988 the applicant's lawyer had, however, informed the Commission that his client had restarted the proceedings and that the first hearing would be held on the following 2 December. On 6 December he told the Commission that Mr Arena intended to appeal in his dispute with Mr B., whereas his action against the X company was out of time.

On 3 July 1991 the lawyer wrote to the Court that he had no new information or documents to submit.

PROCEEDINGS BEFORE THE COMMISSION

11. Mr Arena lodged his application with the Commission on 10 September 1987. He complained of the length of the civil proceedings brought by him and relied on Article 6 para. 1 (art. 6-1) of the Convention.

12. On 11 May 1990 the Commission declared the application (no. 13261/87) admissible. In its report of 15 January 1991 (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 is reproduced as an annex to this judgment*.

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* Note by the Registrar: for practical reasons this annex will appear only with the printed version of the judgment (volume 228-H 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

ALLEGED VIOLATION OF ARTICLE 6 PARA. 1 (art. 6-1)

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

"In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

The Government disputed this view, whereas the Commission accepted it.

14. The period to be taken into consideration began on 20 March 1984 when the proceedings against Mr B. and the insurance company were instituted in the Rome District Court. It ended, at the earliest, on 16 April 1989, when the District Court's judgment became final.

15. The reasonableness of the length of proceedings is to be assessed with reference to the criteria laid down in the Court's case-law and in the light of the circumstances of the case, which in this instance call for an overall assessment.

16. The Government invoked the complexity of the facts and the applicant's conduct.

The Commission took the view that these considerations did not in themselves justify the length of the proceedings. It drew attention to a period of inactivity from 19 June 1986 (last hearing before the investigating judge) to 5 February 1988 (hearing before the competent chamber of the District Court).

17. The Court notes that the investigation took a little more than twenty-five months, after which approximately seventeen and a half months elapsed before the trial hearing.

As regards the first of these periods, it may be observed that it proved necessary to call for an expert medical opinion and that the expert appointed completed his task less than two months after he was sworn in. In addition, the applicant failed to appear at one of the hearings.

The second period appears on the face of it excessive. It would nevertheless seem to be acceptable if viewed in the context of the total duration of the proceedings, as it must be. In this connection it should be noted that when Mr Arena's action was dismissed on the ground of a procedural defect, he did not apparently take out a new summons.

18. Accordingly, the delays which occurred in the proceedings were not so substantial as to violate Article 6 para. 1 (art. 6-1).

FOR THESE REASONS, THE COURT UNANIMOUSLY

Holds that there has been no violation of Article 6 para. 1 (art. 6-1).

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 27 February 1992.

Signed: Rolv RYSSDAL
President

Signed: Marc-André EISSEN
Registrar