In the case of Caffè Roversi S.p.a. 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 29 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 25/1991/277/348. 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. 12825/87) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian company, Caffè Roversi S.p.a., on 27 January 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 company stated that it wished to take part in the proceedings and designated the lawyer who would represent it (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, Andreucci, Gana, Barbagallo, Cifola, Pandolfelli and Palumbo, Arena, 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; 33/1991/285/356; 36/1991/288/359; 38/1991/290/361; 40/1991/292/363 to 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, Mr 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 hearing, 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 company's lawyer on the organisation of the proceedings (Rules 37 para. 1 and 38). Pursuant to the order made in consequence, the Registrar received the applicant's memorial on 9 July 1991 and the Government's memorial on 16 July. By a letter received on 22 August, the Secretary to the Commission informed the Registrar that the Delegate would submit oral observations.

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

7. In accordance with the decision of the President - who had given the applicant leave to use the Italian language (Rule 27 para. 3) -, the hearing took place in public in the Human Rights Building, Strasbourg, on 29 October 1991. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr G. Raimondi, magistrato,
seconded to the Diplomatic Legal
Service of the Ministry of Foreign Affairs, Co-Agent,
Mr G. Manzo, magistrato, seconded to the
Ministry of Justice,
Mrs A. Passannanti, magistrato, seconded to the
Ministry of Justice, Counsel;

(b) for the Commission

Mr J.A. Frowein, Delegate;

(c) for the applicant

Mr B. Micolano, avvocato, Counsel.

The Court heard addresses by Mr Raimondi and Mrs Passannanti for the Government, by Mr Frowein for the Commission and by Mr Micolano for the applicant.

8. On 10 October the Government had filed their observations on the applicant's claims for just satisfaction (Article 50 of the Convention) (art. 50); on 5 November the Commission lodged its observations on those claims.

AS TO THE FACTS

9. The applicant is a limited company whose registered office is in Bologna. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 16-19 of its report):

> "16. On 13 November 1981 the applicant filed a suit against Mr and Mrs P. before the Modena District Court claiming payment of 8,910,088 Italian lire.
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> 17. The investigation, commenced at the hearing of 21 January 1982, continued with hearings on 8 April 1982, 27 May 1982, 21 October 1982, 13 January 1983, 7 April 1983, 9 June 1983, 27 October 1983 (on which date the investigating judge called for a report by a graphology expert), 16 November 1983 (adjourned due to the expert's absence), 22 December 1983, 7 June 1984 (adjourned at the request of the parties as the expert's report had been lodged only the previous day), 10 July 1984, 18 July 1984, 13 December 1984, 18 April 1985, 10 October 1985, 19 December 1985, 23 January 1986, 19 June 1986 and 4 December 1986.
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> 18. On the last-mentioned date the case was ready for decision and was referred by the investigating judge to the appropriate chamber of the court to be dealt with at the hearing set for 13 April 1988.
>
> 19. On 14 April 1988 the District Court allowed the applicant's claim. The text of the judgment was lodged with the court registry on 20 May 1988.
>
> 20. ... ."

10. According to the information supplied to the European Court by the applicant, there was no appeal.

PROCEEDINGS BEFORE THE COMMISSION

11. Caffè Roversi S.p.a lodged its application with the Commission on 27 January 1987. It complained of the length of the civil proceedings brought by it and relied on Article 6 para. 1 (art. 6-1) of the Convention.

12. On 11 May 1990 the Commission declared the application (no. 12825/87) admissible. In its report of 5 December 1990 (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*.

* Note by the Registrar: for practical reasons this annex will appear only with the printed version of the judgment (volume 230-G of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

FINAL SUBMISSIONS TO THE COURT BY THE GOVERNMENT

13. At the hearing the Government confirmed the submission put forward in their memorial, in which they requested the Court to hold "that there [had] been no violation of the Convention in the present case".

AS TO THE LAW

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

14. The applicant claimed that its 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.

15. The period to be taken into consideration began on 13 November 1981 when the proceedings were instituted against Mr and Mrs P. in the Modena District Court. It would appear to have ended on 20 May 1989, the date on which the District Court's judgment must have become final (see the Pugliese (II) v. Italy judgment of 24 May 1991, Series A no. 206-A, p. 8, para. 16).

16. 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.

17. The Government invoked the complexity of the facts, the applicant's conduct and the excessive workload of the District Court.

18. The Court points out that the investigation took a little more than five years (13 November 1981 - 4 December 1986), following which one year and four months elapsed before the trial hearing on 13 April 1988.

As regards the first of these periods, the Court observes that the parties caused several adjournments. In addition, the investigating judge had to have recourse to an expert graphological opinion, hear witnesses and rule on an application for an attachment order. Yet the case was not so complex that it warranted no less than twenty hearings. Moreover, the judge in question waited respectively fourteen and six months before ordering, at the applicant's request, the two above-mentioned investigative measures.

The second period, coming after the first as it did, made the situation worse. The Government pleaded the backlog of cases in the Modena District Court, but Article 6 para. 1 (art. 6-1) imposes on the Contracting States the duty to organise their legal systems in such a way that their courts can meet each of its requirements (see, inter alia, the Vocaturo v. Italy judgment of 24 May 1991, Series A no. 206-C, p. 32, para. 17).

19. Accordingly, the Court cannot regard as "reasonable" the lapse of time in the present case.

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

II. APPLICATION OF ARTICLE 50 (art. 50)

20. According to 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."

A. Damage

21. The applicant company claimed in the first place 50,000,000 Italian lire for damage.

The Commission took the view that the applicant was entitled to compensation for any pecuniary damage sustained by it if it succeeded in establishing its existence and that of a causal connection with the violation found.

22. The evidence does not show that these conditions have been satisfied. Accordingly the Court dismisses the claim.

B. Costs and expenses

23. Caffè Roversi S.p.a. also sought 20,358,400 lire for costs and expenses incurred before the Convention organs.

Having regard to the evidence at its disposal and to its case-law in this field, the Court awards it 8,000,000 lire under this head.

C. Interest

24. The Commission invited the Court to fix for the Government - who did not give their opinion - a compulsory time-limit for executing the present judgment and to make provision for the payment of interest in the event of their failure to comply therewith.

25. The first of these proposals is in conformity with a practice followed by the Court since October 1991.

As to the second, the Court does not consider it appropriate to require any payment of interest in this instance, particularly as no such request was made by the applicant.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that there has been a violation of Article 6 para. 1 (art. 6-1);

2. Holds that the respondent State is to pay to the applicant, within three months, 8,000,000 (eight million) Italian lire 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 27 February 1992.

Signed: Rolv RYSSDAL
President

Signed: Marc-André EISSEN
Registrar