

In the case of G. 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 24/1991/276/347. 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. 12787/87) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mr G., on 6 March 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's wife informed the registry on 15 April 1991 that her husband had died. She stated that she wanted the proceedings to continue and to take part in them and be represented by the lawyer she had designated (Rule 30). For reasons of convenience Mr G. will continue to be referred to in this judgment as "the applicant", although it is now his widow who is to be regarded as having that status (see the *Vocaturo v. Italy*

judgment of 24 May 1991, Series A no. 206-C, p. 29, para. 2).
Mrs G. requested the Court not to disclose her identity.

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, Caffè Roversi S.p.a., 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.

* 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; 25/1991/277/348; 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

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 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 memorial of the applicant - whom the President had authorised to use the Italian language (Rule 27 para. 3) - on 1 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 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 G., an Italian national, resided in Rome until his death. 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 27 June 1985 the applicant took proceedings against the X company before the Rome magistrate's court (pretore). He alleged that the company, which had employed him until October 1983, had not remunerated him in accordance with the managerial duties which he had discharged, and requested that it be ordered to pay him 208,930,000 Italian lire, adjusted in line with inflation and plus the statutory interest.

17. The investigation commenced at the hearing of 17 December 1985 followed by hearings of 9 January and 20 February 1986. At the close of the hearing on 28 April 1986 the magistrate's court dismissed the applicant's claim. The text of the decision was lodged with the court registry on 29 April 1986.

18. On 11 July 1986 the applicant appealed against the decision and on 14 July 1986 the presiding judge of the Rome District Court set down the hearing before the competent chamber of the court for 29 June 1988.

19. A request that the hearing date be brought forward, submitted by the applicant on 10 November 1986, was rejected on 30 March 1987.

20. The hearing finally took place on 1 July 1988. On that date the District Court delivered judgment, upholding the decision by the magistrate's court. The text of the judgment was lodged with the court registry on 21 July 1988.

21."

10. According to the information supplied to the European Court by Mrs G., no appeal was filed in the Court of Cassation.

PROCEEDINGS BEFORE THE COMMISSION

11. Mr G. lodged his application with the Commission on 6 March 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. 12787/87) 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 228-F 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)

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 27 June 1985 when the proceedings against the X company were instituted in the Rome magistrate's court. It ended on 21 July 1989 when the District Court's judgment became final (see the *Pugliese (II) v. Italy* judgment of 24 May 1991, Series A no. 206-A, p. 8, para. 16).

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 of the legal issues and the excessive workload of the District Court.

The applicant stressed that he had had to wait thirty-six months for the first-instance and second-instance decisions despite the fact that there was statutory provision for shorter time-limits in labour disputes. The period of nearly two years between the filing of the appeal (11 July 1986) and the hearing in the competent chamber (1 July 1988) had in itself infringed Article 6 (art. 6); in addition, the President of the chamber in question had refused to comply with the applicant's request that the date of the hearing be brought forward.

The Commission took the view that the "complex features" of the case were not sufficient to justify the length of the proceedings. It drew attention to a period of inactivity from 11 July 1986 to 1 July 1988.

17. The Court notes in the first place that the major part of the period to be taken into consideration related to the appeal proceedings; the magistrate's court gave judgment barely ten months after the institution of proceedings. No doubt the District Court and the magistrate's court did not comply with the shortened time-limits applicable to disputes of this nature, but such a failure does not in itself infringe Article 6 para. 1 (art. 6-1) (see, as the most recent authority, the *Wiesinger v. Austria* judgment of 30 October 1990, Series A no. 213, pp. 22-23, para. 60). In this instance, regard must be had to the nature of the dispute, which concerned the recognition of a higher professional qualification and the payment of arrears of remuneration.

It is true that no investigative measure was taken during the above-mentioned period between the filing of the appeal and the appeal hearing. The Government pleaded the backlog of the cases in the 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). The period in question would nevertheless seem to be acceptable if viewed in the context of the total duration of the proceedings, as it must be.

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