

In the case of Manieri 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:

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#### Notes by the Registrar

\* The case is numbered 6/1991/258/329. 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.

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#### 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. 12053/86) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mrs Anna Aurora Manieri, on 30 December 1985.

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 she wished to take part in the proceedings and designated the lawyer who would represent her (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, 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, 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 5/1991/257/328; 7/1991/259/330 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 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'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 claims for just satisfaction (Article 50 of the Convention) (art. 50) on 4 April and 17 June 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 L. Rossi, avvocato, Counsel.

The Court heard addresses by Mr Raimondi and Mrs Passannanti for the Government, by Mr Frowein for the Commission and by Mr Rossi for the applicant, as well as their answers to its question.

8. On 5 November the Commission filed its observations on the applicant's claims for just satisfaction (Article 50 of the Convention) (art. 50), on which the Government had already commented in their memorial.

#### AS TO THE FACTS

9. Mrs Anna Aurora Manieri is an Italian national and resides in Rome. She is a shopkeeper. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 16-18 of its report):

"16. By a writ against Mr P. before the Teramo District Court dated 23 March 1983, the applicant applied on her own behalf and on behalf of her brother and sisters to regain possession of the real property which they had inherited following the death of their mother and then their father and which was held by Mr P. as managing agent.

17. The investigation began at the hearing of 31 May 1983. Following that date, six other hearings took place on 4 November 1983, 17 January, 15 May, 6 November and 4 December 1984 and 12 March 1985. During the investigation, the second wife of the applicant's father intervened in the proceedings claiming ownership of the property in dispute in accordance with the American law of succession, which the claimant contended was applicable to the case on the ground of the deceased's American citizenship. Extensive documentation, some originating from the United States, was included in the case-file.

18. The investigation of the case was concluded on 16 July 1985 and the case was referred to the appropriate chamber of the court. The hearing before it, fixed for 25 November 1986, was postponed on six occasions in succession until 4 April 1989 owing to the transfer of the investigating judge.

19. ... ."

10. According to the information supplied to the European Court by the participants in the Strasbourg proceedings, on that latter date the Teramo District Court remitted the case to the investigating judge for further inquiries to be undertaken. As a result of that officer's subsequent transfer, the hearing which was to have taken place on 9 January 1990 was not held until 6 April, on which date the parties contested the accounts and requested that the managing agent be replaced. The judge reserved his decision and invited them to produce various documents.

On 21 September 1990 Mr Antonio Manieri (junior) intervened in the proceedings and requested time to submit his application in due form and to produce documents. On 19 October 1990 the parties filed their memorials and repeated their request for Mr P. to be replaced.

The judge allowed this request on 18 July 1991; he appointed

Mr Massimo Manieri and set the hearing down for 4 October 1991. The Court has no information concerning the subsequent course of the proceedings.

#### PROCEEDINGS BEFORE THE COMMISSION

11. Mrs Manieri lodged her application with the Commission on 30 December 1985. She complained of the length of the civil proceedings brought by her and relied on Article 6 para. 1 (art. 6-1) of the Convention.

12. On 11 May 1990 the Commission declared the application (no. 12053/86) 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 229-D of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

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#### 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 her 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 23 March 1983 when the proceedings were instituted against Mr P. in the Teramo District Court. It has not yet ended because that court has still to give judgment.

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 and the legal issues and the transfer of two investigating judges. The applicant complained of the failure of the Italian State to organise properly the system of civil justice and maintained that her own conduct had had no effect on the length of the proceedings.

18. The Court recognises that the case was one of some complexity, which was increased following the intervention of the second wife of the applicant's father and that of Mr Antonio Manieri (junior); the former's intervention raised the question of the

determination of the applicable law (see paragraph 9 above, no. 17).

On the other hand, there were three periods of stagnation, namely from 16 July 1985 to 4 April 1989, then from that date until 6 April 1990 and finally from 19 October 1990 to 18 July 1991.

The Government have not given any explanation for that last period. In respect of the other two, and in particular the first of them, the length of which - almost four years - appears incomprehensible, they cited the transfer of two judges, 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 *Vocaturò v. Italy* judgment of 24 May 1991, Series A no. 206-C, p. 32, para. 17).

19. Accordingly, the Court cannot regard as "reasonable" in this instance a lapse of time of almost nine years for only one level of jurisdiction.

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. Mrs Manieri claimed in the first place one thousand million Italian lire for damage.

In the Government's contention, she failed to show the existence of a causal connection between the alleged violation and any pecuniary damage which she may have sustained. As to non-pecuniary damage, a finding of a violation would constitute sufficient just satisfaction for the purposes of Article 50 (art. 50).

22. The Court agrees with that opinion as regards the first point, but considers that the applicant must have suffered non-pecuniary damage for which the Court, making an assessment on an equitable basis, awards her 20,000,000 lire.

### B. Costs and expenses

23. The applicant also sought 2,609,500 lire and 845 French francs for costs incurred before the Convention organs.

Having regard to the evidence at its disposal and to its case-law in this field, the Court awards her the sum claimed in its entirety.

### 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, 20,000,000 (twenty million) Italian lire for non-pecuniary damage and 2,609,500 (two million six hundred and nine thousand five hundred) lire and 845 (eight hundred and forty-five) French francs 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