

In the case of Manifattura FL 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 15/1991/267/338. 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. 12407/86) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian company, Manifattura FL, on 9 July 1986. The company was designated by the letter "M." in the proceedings before the Commission; subsequently it agreed to the disclosure of its identity.

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, 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.

---

\* Cases nos. 3/1991/255/326 to 13/1991/265/336; 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

---

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 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 Government's memorial on 16 July 1991. 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 G. Sambataro, avvocato,

Counsel.

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

8. On 5 November the Commission lodged its observations on the applicant company's claims for just satisfaction (Article 50 of the Convention) (art. 50).

#### AS TO THE FACTS

9. The applicant is a limited company whose registered office is at Vaiano (Florence). The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 16-21 of its report):

"16. On 14 October 1982 the X company brought an action against the applicant before the Modena District Court to obtain a declaration that no purchase and sale contract existed between it and the applicant company contrary to the latter's allegation.

17. In its counterclaim of 13 January 1983, the applicant asked that the court should first declare the aforesaid contract valid and then order that it be performed.

18. The investigation began at the hearing of 18 January 1983, followed by hearings on 12 April, 14 June and 8 November 1983, 13 March 1984 (adjourned at the plaintiff's request) and 15 May 1984. On 21 May 1984 the investigating judge allowed an application by the X company and ordered the examination of a witness whose evidence was taken at the hearing of 24 April 1985. Two more hearings were held on 5 November 1985 and 18 March 1986.

19. On 18 March 1986 the parties made their final submissions. The investigating judge referred the case to the appropriate chamber of the court and fixed the hearing for 15 March 1989.

20. On 12 April 1989 the District Court dismissed the X company's claim and allowed the applicant's claim. The text of its decision was lodged with the registry on 4 September 1989.

21. On 9 March 1990 the X company applied to the Bologna Court of Appeal for the reversal of the above decision."

10. According to the information supplied to the European Court by the Government and the applicant company, the first hearing was held on 13 June 1990; the appellant company sought an adjournment in order to allow Manifattura FL the time to enter its reply. The case was adjourned until 10 October 1990, then to 17 April 1991, for the final submissions. On that occasion the applicant entered its reply and obtained an adjournment until 29 May 1991. The case was then set down for trial before the chamber on 15 October 1993.

#### PROCEEDINGS BEFORE THE COMMISSION

11. Manifattura FL lodged its application with the Commission on 9 July 1986. 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. 12407/86) 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\*.

---

\* Note by the Registrar: for practical reasons this annex will appear only with the printed version of the judgment (volume 230-B 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 company 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 14 October 1982 when the proceedings were instituted against the applicant in the Modena District Court. It has not yet ended because the Bologna Court of Appeal 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 excessive workload of the relevant courts and the conduct of the applicant company, which in particular had not requested that its case be examined more rapidly.

18. However, the case was not a complex one. There was a long period of stagnation in the proceedings before the competent chamber of the Modena District Court (18 March 1986 - 12 April 1989). The Government pleaded the backlog of cases, 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). It is moreover difficult to understand why it took nearly five months to file the text of the judgment with the registry (12 April - 4 September 1989).

It is true that on appeal the applicant waited more than thirteen months to enter a reply (9 March 1990 - 17 April 1991); in addition, the applicant company and the X company each caused an adjournment. It remains nevertheless the case that the trial hearing will be conducted at best more than twenty-eight months after the end of the investigation (29 May 1991 - 15 October 1993).

19. Accordingly, the Court cannot regard as "reasonable" in this instance a lapse of time of more than nine years.

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 sought in the first place a deposit from the Italian Government to guarantee the payment of the sum claimed in the national courts or, failing that, a sum of 65,000,000 Italian lire in respect of pecuniary and non-pecuniary damage.

The Commission took the view that the company was entitled to reparation for non-pecuniary damage; it should also be awarded compensation for pecuniary damage if it succeeded in establishing the existence of such damage and that of a causal connection with the violation found.

22. As regards the primary claim, the Court notes that it is not empowered under the Convention to order a Contracting State to take such a measure (see, *mutatis mutandis*, the *Vocaturo v. Italy* judgment, cited above, Series A no. 206-C, p. 33, para. 21).

On the question of the award of a sum for pecuniary damage, the evidence does not show that the necessary conditions have been satisfied. As to the non-pecuniary damage alleged, assuming that *Manifattura FL*, a commercial company, was capable of suffering such damage, the Court considers that the finding of a violation of Article 6 para. 1 (art. 6-1) in itself provides sufficient just satisfaction for the purposes of Article 50 (art. 50).

### B. Costs and expenses

23. The applicant company also claimed, firstly, 50,000,000 lire, plus 15,000,000 lire per year, in respect of the costs necessary to obtain satisfaction at national level and, secondly, 15,968,040 lire for its costs and expenses before the Convention organs.

24. The first sums do not fall to be taken into consideration under Article 50 (art. 50) because it does not appear from the evidence that such costs were incurred in order to prevent the breach of the "reasonable time" requirement. The second figure may be taken into account, but the applicant's claims are excessive; making an assessment on an equitable basis, the Court fixes at 8,000,000 lire the amount to be reimbursed under this head.

C. Interest

25. The Commission invited the Court to fix for the Government - who did not give an 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.

26. 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 this judgment constitutes in itself, as regards any non-pecuniary damage, sufficient just satisfaction for the purposes of Article 50 (art. 50);
3. Holds that the respondent State is to pay to the applicant company, within three months, 8,000,000 (eight million) Italian lire for costs and expenses;
4. Dismisses the remainder of the applicant's claim.

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