

In the case of *Mastrantonio 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 7/1991/259/330. 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. 12054/86) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mr Alberto Mastrantonio, on 17 March 1986.

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, 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.

* Cases nos. 3/1991/255/326 to 6/1991/258/329; 8/1991/260/331 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

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 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. Frowein,

Delegate;

(c) for the applicant

Mr L. Rossi, avvocato,

Mr M.-A. Rossi, praticante procuratore legale, Counsel.

The Court heard addresses by Mr Raimondi and Mrs Passannanti for the Government, by Mr Frowein for the Commission and by Mr M.-A. 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. Mr Alberto Mastrantonio is an Italian national and resides at L'Aquila. He is a labourer. 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 21 August 1977 the applicant was involved in a road accident caused by Mr W., a German citizen.

17. By summons of 15 March 1978 before the Teramo District Court, he claimed damages from the Ufficio Centrale Italiano, which is liable in respect of any damage resulting from traffic accidents caused by foreigners in Italy.

18. The investigation began on 7 June 1978. Hearings subsequently took place on 29 November 1978, 16 May, 25 July and 28 November 1979, 5 March, 28 May, 24 September and 17 December 1980, 1 April and 9 December 1981, 21 April and 13 October 1982, 23 February 1983 and 29 February 1984.

19. The judge responsible for the investigation was then transferred and the case was therefore adjourned indefinitely. Its examination was not resumed until 3 November 1987, when the new investigating judge called for an expert opinion and summoned an expert to the hearing of 1 March 1988. The subsequent steps in the investigation have not been specified"

10. According to the information supplied to the European Court by the applicant's lawyer, the parties were to make their final submissions on 15 November 1991.

PROCEEDINGS BEFORE THE COMMISSION

11. Mr Mastrantonio lodged his application with the Commission on 17 March 1986. 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. 12054/86) 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 229-E 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 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.

15. The proceedings began on 15 March 1978 when the Ufficio Centrale Italiano was summonsed to appear in the Teramo District Court and they are still pending in that court.

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. Although the case is not a complex one, the investigation has already lasted thirteen years. The periods fixed by the investigating judge between the fifteen hearings held from 7 June 1978 to 29 February 1984 were too long. After the judge had been transferred, the proceedings remained dormant for three years and eight months. On 3 November 1987 his replacement called for an expert opinion, but did not hear the expert until 1 March 1988. There was therefore another delay of about four months, in addition to those which had already occurred.

The Government invoked the excessive workload of the Teramo 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 the *Vocaturò v. Italy* judgment of 24 May 1991, Series A no. 206-C, p. 32, para. 17).

18. Accordingly and despite the lack of details on the course of the proceedings after 1 March 1988, the Court cannot regard as "reasonable" in the present case such a lapse of time for proceedings which are still pending at first instance.

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

II. APPLICATION OF ARTICLE 50 (art. 50)

19. 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

20. The applicant claimed in the first place financial compensation for damage, without giving any figures.

The Commission took the view that, in addition to reparation for non-pecuniary damage, Mr Mastrantonio was entitled to compensation for any pecuniary damage sustained by him if he succeeded in establishing its existence and that of a causal connection with the violation found.

21. The evidence does not show that these conditions have been satisfied. On the other hand, the applicant undoubtedly suffered non-pecuniary damage for which the Court, making an assessment on an equitable basis, awards him 10,000,000 Italian lire.

B. Costs and expenses

22. The applicant also sought 2,606,000 lire and 772 French francs 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 him the sum claimed in its entirety.

C. Interest

23. 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, 10,000,000 (ten million) Italian lire for non-pecuniary damage and 2,606,000 (two million six hundred and six thousand) lire and 772 (seven hundred and seventy-two) 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