

In the case of *Taiuti 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 12/1991/264/335. 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. 12238/86) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mr Renzo Taiuti, on 23 May 1986. Mr Taiuti was designated by the letter "T." in the proceedings before the Commission; subsequently he agreed to the disclosure of his 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 stated that he did not wish to take part in the proceedings.

3. On 23 April 1991 the President 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, 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 11/1991/263/334; 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 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") and the Delegate of the Commission on the organisation of the proceedings (Rules 37 para. 1 and 38). In accordance with 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 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 5 November the Commission lodged its observations on the claims for just satisfaction which the applicant had communicated to the Registrar on 12 June (Article 50 of the Convention; Rules 50 and 1(k), taken together) (art. 50) and on which the Government had already commented in their memorial.

AS TO THE FACTS

9. Mr Renzo Taiuti is an Italian national and resides in Florence. He is retired. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 16-22 of its report):

"16. On 1 June 1982 the applicant instituted divorce proceedings before the Florence District Court.

17. The applicant and his wife appeared before the presiding judge of the District Court, after which the case was referred to the investigating judge. The investigation commenced at the hearing of 16 November 1982, followed by three further hearings on 1 February, 22 March and 24 May 1983. At the hearing of 13 October 1983 the judge allowed a request by the applicant and appointed an expert to assess the applicant's fitness for work.

18. The investigation of the case was to have resumed on 24 May 1984, but the hearing set for that date was not held until 29 March 1985 owing to the transfer of the investigating judge.

19. At the hearing of 4 June 1985 the investigating judge rejected a request by the applicant's wife that a witness be examined. The parties made their final submissions at the hearing of 28 June 1985 and the investigating judge set down the hearing before the appropriate chamber of the District Court for 11 December 1985.

20. On that date, the District Court referred the case back to the investigating judge for the examination of the witness requested by the applicant's wife. At the next hearing, held on 15 May 1986, the witness sent word that he was unable to attend and the hearing was postponed to 9 October 1986. On that date the witness did not appear, but the applicant's wife produced a copy of the record of his testimony during earlier proceedings.

21. The parties made their final submissions at the hearing on 30 October 1986.

22. The investigating judge referred the case to the appropriate chamber of the court which heard the parties on 17 February 1988, after which judgment was reserved. The date of the Florence District Court's judgment has not been communicated, but the text thereof was lodged with the court registry on 20 October 1988.

23."

10. According to the Government, the District Court's judgment became final on 1 December 1990.

PROCEEDINGS BEFORE THE COMMISSION

11. Mr Taiuti lodged his application with the Commission on 23 May 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. 12238/86) 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 229-I of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

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 1 June 1982 when the applicant instituted divorce proceedings. According to information provided by the Government, it ended on 1 December 1990 (see paragraph 10 above).

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 excessive workload of the Florence District Court. In addition, the applicant had not requested that his case be dealt with more rapidly.

17. In the proceedings in issue the investigating judge fixed long periods between the hearings and, according to the incomplete information provided to the Court, there were two periods of total inactivity (from 13 October 1983 to 29 March 1985 and from 30 October 1986 to 17 February 1988). Furthermore, the Florence District Court would appear to have delayed either giving judgment following the hearing of 17 February 1988 or filing its judgment with the registry.

The Government pleaded the backlog of 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).

18. Accordingly, the Court cannot regard as "reasonable" the lapse of time in the present case, in particular as special diligence is required in cases concerning civil status and capacity (see the *Bock v. Germany* judgment of 23 March 1989, Series A no. 150, p. 23, para. 49).

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. Mr Taiuti claimed in the first place compensation for damage without giving any figures.

21. In the Government's contention, he failed to establish the existence of any pecuniary damage and a finding of a breach of the requirements of Article 6 para. 1 (art. 6-1) would in itself provide sufficient just satisfaction for any non-pecuniary damage that he may have suffered.

22. There is no evidence that the applicant sustained any pecuniary damage as a result of the failure to comply with the reasonable time requirement. On the other hand, he must have suffered a degree of non-pecuniary damage for which the Court, making an assessment on an equitable basis, awards him 2,000,000 Italian lire.

B. Costs and expenses

23. The applicant also sought 3,327,500 lire for costs incurred before the Court.

Having regard to the evidence at its disposal and its case-law in this field, the Court awards Mr Taiuti the amount claimed.

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, 2,000,000 (two million) Italian lire for non-pecuniary damage and 3,327,500 (three million three hundred and twenty-seven thousand five hundred) 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