

In the case of Vorrasi 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 20/1991/272/343. 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. 12706/87) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mrs Maria Vorrasi, on 31 October 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 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, Manieri, Mastrantonio, Idrocalce S.r.l., Owners' Services Ltd, Cardarelli, Golino, Taiuti, Maciariello, Manifattura FL, Steffano, Ruotolo, 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; 15/1991/267/338; 16/1991/268/339; 18/1991/270/341; 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"), 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 15 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. Mrs Maria Vorrasi is an Italian national and resides in Rome. She is a housewife. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 16-23 of its report):

"16. By a writ served on 15 March 1978 the applicant

instituted proceedings against her mother, Mrs L., and her three brothers before the Melfi District Court, asking for the division of her father's estate.

17. The investigation commenced at the hearing of 10 May 1978. At the hearing of 21 June 1978 the applicant made a request for the appointment of an expert to assess the property constituting the estate and to put forward a plan of apportionment. The investigating judge deferred his decision on this request.

18. The next hearing did not take place until 19 February 1980, on which date the proceedings in the case were adjourned because Mrs L.'s counsel could not attend.

19. The parties then entered into negotiations for a friendly settlement and this prompted a series of postponements of the following hearings:

- 15 April 1980 (postponed at Mrs L.'s request);
- 17 June 1980 (postponed at the parties' request);
- 31 March 1981 (postponed at Mrs L.'s request);
- 1 December 1981 (postponed at the parties' request);
- 16 March 1982 (postponed at the parties' request);
- 23 November 1982 (postponed at the parties' request);
- 16 March 1983 (postponed at Mrs L.'s request);
- 1 June 1983 (postponed at Mrs L.'s request);
- 21 December 1983 (postponed at Mrs L.'s request);
- 4 April 1984 (postponed at the parties' request);
- 11 July 1984 (postponed at Mrs L.'s request).

20. At the hearing on 12 March 1985 the applicant reiterated her request for an expert opinion, but at Mrs L.'s request the investigating judge adjourned the case firstly to 4 June 1985 and then to 10 December 1985. On that date the applicant again called for an expert opinion. On 27 December 1985 the investigating judge ruled that an expert opinion could not be given on the basis of the documents produced by the parties, and directed them to complete the case-file.

21. The applicant complied at the hearing of 18 February 1986 and reiterated her request for an expert opinion. Mrs L. requested a further adjournment. The investigating judge set the next hearing down for 13 May 1986. However, the hearing did not take place until 10 March 1988, on which date the investigating judge reserved his decision on the request for an expert opinion. On 6 April 1988 he directed that an expert be summoned.

22. At the hearing on 30 June 1988 the expert was sworn in and given one hundred and twenty days to deliver his opinion. The investigating judge adjourned the case to 17 November 1988.

23. The expert opinion, however, was not lodged within the time stipulated and the hearing was postponed to 23 March 1989. ... "

10. According to the information supplied to the European Court by the applicant and the Government, on 23 March 1989 the parties requested an adjournment in order to study the expert's report, which had been lodged on 22 November 1988. The following hearing which had been set down for 22 June was not held until 5 October. On that occasion Mrs Vorrasi's lawyer asked that, in the light of the report, the estate be attributed to one of the heirs only; to this end, he requested the judge to direct that they appear in

person in order to determine which of them was interested in the holdings of the others. As one of the lawyers had asked for time to consult his clients, the investigation, which was first adjourned until 23 November 1989, reopened in fact on 24 May 1990. As the applicant repeated her request for the appearance in person of the other heirs, the judge reserved his decision until 28 June 1990. On 25 July he ordered the joinder of the case with another which was also pending before him and concerned the same property and persons.

On a date which has not been specified, he ordered that the heirs appear in person on 31 January 1991, but this did not occur on that date because he had been transferred in the meantime. His replacement, who was appointed on 14 May 1991, set down a hearing for 24 September 1991. The Court has no information on what happened at that hearing.

PROCEEDINGS BEFORE THE COMMISSION

11. Mrs Vorrasi lodged her application with the Commission on 31 October 1986. 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. 12706/87) 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-E 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 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.

14. The period to be taken into consideration began on 15 March 1978 when the proceedings were instituted against the defendants in the Melfi District Court. It has not yet ended since it appears that that court has still not given judgment.

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 conduct of the applicant - who had not requested that her case be examined more rapidly - and the lack of judges at the Melfi District Court.

17. The Court notes in the first place that the problem to be

determined was a complex one concerning the apportionment of indivisible property among several heirs. It stresses in addition, like the Government, that the State was not responsible for the long period - from 15 April 1980 to 11 July 1984 - during which the parties sought a number of adjournments in connection with their attempt to achieve an out-of-court settlement. It may be questioned, moreover, why the parties found it necessary to seek, on 23 March 1989, additional time to study the expert's report, which had been filed four months previously.

Nevertheless, the Commission rightly drew attention to two periods of inactivity for which the State was wholly responsible (21 June 1978 to 19 February 1980 and 18 February 1986 to 10 March 1988). There was a third such period: the new investigating judge did not hold a hearing until, at the earliest, four months and ten days after his appointment (14 May - 24 September 1991), which appointment had occurred several months after his predecessor's transfer, which had taken place some time between 25 July 1990 and 31 January 1991.

The Government pleaded the lack of judges appointed to the Melfi 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. Taking the proceedings as a whole, the Court cannot regard as "reasonable" in this instance a lapse of time which is already more than thirteen and a half years.

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. Mrs Vorrasi claimed in the first place financial compensation for pecuniary damage. She did not make any claim for non-pecuniary damage and this is not a matter for the Court to examine of its own motion.

The Commission took the view that the applicant was entitled to compensation for any pecuniary damage sustained by her if she succeeded in establishing its existence and that of a causal connection with the violation found.

21. There is no evidence that these conditions have been satisfied. Accordingly, the claim must be dismissed.

B. Costs and expenses

22. The applicant also sought the reimbursement of 7,103,000 Italian lire in respect of costs which she had incurred before the Convention organs.

Having regard to the evidence at its disposal and its case-law in this field, the Court awards 4,000,000 lire under this head.

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.

24. 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, 4,000,000 (four million) Italian 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