

In the case of M.R. 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 R. Macdonald,
Mr C. Russo,
Mr A. Spielmann,
Mr S.K. Martens,
Mr I. Foighel,
Sir John Freeland,
Mr A.B. Baka,
Mr M.A. Lopes Rocha,

and also of Mr M.-A. Eissen, Registrar,

Having deliberated in private on 25 November 1992,

Delivers the following judgment, which was adopted on that date:

Notes by the Registrar

* The case is numbered 20/1992/365/439. 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 by the European Commission of Human Rights ("the Commission") on 10 July 1992, within the three-month period laid down in Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 12996/87) against the Italian Republic lodged with the Commission under Article 25 (art. 25) by an Italian national, Mrs M.R., on 10 June 1987.

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. On 26 September 1992 the President of the Court decided, under Rule 21 para. 6 of the Rules of Court and in the interests of the proper administration of justice, that a single Chamber should be constituted to hear the instant case and the Scuderi and Massa v. Italy cases*.

* Cases nos. 19/1992/364/438 and 23/1992/368/442

3. 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 26 September 1992 likewise, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr R. Macdonald, Mr A. Spielmann, Mr S.K. Martens, Mr I. Foighel, Sir John Freeland, Mr A.B. Baka and Mr M.A. Lopes Rocha (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43).

4. As the applicant never replied to the enquiry made of her on 16 July 1992 in accordance with Rule 33 para. 3 (d), Mr Ryssdal - who had assumed the office of President of the Chamber (Rule 21 para. 5) - instructed the Registrar to seek the views of the Government and the Delegate of the Commission as to the possibility of striking the case out of the list (Rule 49 para. 2). Their replies reached the registry on 23 October and 10 November respectively.

5. On 25 November the Chamber decided to dispense with a hearing, having satisfied itself that the conditions for such a derogation from the usual procedure had been met (Rules 26 and 38).

AS TO THE FACTS

6. According to the latest information given to the Court, Mrs M.R. lives in Rome. The facts established by the Commission pursuant to Article 31 para. 1 (art. 31-1) of the Convention are as follows (paragraphs 6-10 of its report):

"6. By a decree of the Minister of Finance dated 14 April 1980, at the end of a series of proceedings which had lasted twenty-five years in total, Mr N., the applicant's husband, an official at the Ministry of Finance until his retirement in 1973, was retrospectively acknowledged as being entitled to an upgrading and, consequently, to receive the corresponding difference in remuneration.

7. On 19 October 1984 the applicant brought an action against the Ministry of Finance, the Treasury and the Ente Nazionale di Previdenza e Assistenza per i Dipendenti Statali (ENPAS) in the Lazio Regional Administrative Court (RAC). She sought a recalculation of the salary due to her husband (who had died in the meantime) following the career restructuring ordered by the Ministry of Finance on 14 April 1980 ...

8. On 10 April 1985 counsel for the State filed notice that he would be appearing in defence of the three defendant authorities.

9. On 9 May 1985 the RAC ordered the defendant authorities to investigate the applicant's complaint; on 5 September 1985 the Ministry of Finance filed its documents.

10. On 29 October 1985 the Lazio RAC granted the applicant's request and ordered the Ministry of Finance and the ENPAS to pay an amount calculated in the manner indicated in the judgment. The text of the judgment was filed in the registry on 24 September 1987."

PROCEEDINGS BEFORE THE COMMISSION

7. Mrs M.R. applied to the Commission on 10 June 1987. She complained of the length of the proceedings brought by her and relied on Article 6 para. 1 (art. 6-1) of the Convention.

8. The Commission declared the application (no. 12996/87) admissible on 14 October 1991. In its report of 8 April 1992 (made

under Article 31) (art. 31), the Commission expressed the unanimous opinion that there had been a breach 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 245-E of Series A of the Publications of the Court), but a copy of the Commission's report is available from the registry.

AS TO THE LAW

9. The applicant never replied to the enquiry made pursuant to Rule 33 para. 3 (d) of the Rules of Court or to repeated reminders sent by the Registrar.

The Government and the Commission were consulted on whether the case should be struck out of the list and expressed the view that it should be.

10. Under Rule 49 para. 2,

"When the Chamber is informed of a friendly settlement, arrangement or other fact of a kind to provide a solution of the matter, it may, after consulting, if necessary, the Parties, the Delegates of the Commission and the applicant, strike the case out of the list."

Mrs M.R.'s silence despite several attempts by the registry to contact her over a period of nearly five months, well beyond the normal time of two weeks laid down in Rule 33 para. 3 (d), constitutes a fact "of a kind to provide a solution of the matter" (see, among other authorities and mutatis mutandis, the F.M. v. Italy judgment of 23 September 1992, Series A no. 245-A).

In addition, the Court discerns no reason of public policy for continuing the proceedings (Rule 49 para. 4). In this connection it points out that in a number of previous cases it has had occasion to review the "reasonableness" of the length of judicial proceedings in various Contracting States, including Italy. In so doing it specified the nature and the extent of the obligations arising in this context from Article 6 para. 1 (art. 6-1) of the Convention. Furthermore, several cases raising similar issues are still pending before the Court and it will shortly be giving judgment in them.

Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English and in French, and notified in writing under Rule 55 para. 2, second sub-paragraph, of the Rules of Court on 27 November 1992.

Signed: Rolv RYSSDAL
President

Signed: Marc-André EISSEN
Registrar