



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

**CASE OF MACCIOCCHI v. ITALY**

**(Application no. 43584/98)**

JUDGMENT

STRASBOURG

19 October 1999

**In the case of Macciocchi v. Italy,**

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr C. L. ROZAKIS, *President*,

Mr M. FISCHBACH,

Mr B. CONFORTI,

Mr P. LORENZEN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr A.B. BAKA,

Mr E. LEVITS, *Judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 7 October 1999,

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

**PROCEDURE**

1. The case originated in an application (no. 43584/98) against Italy lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Italian national, Mr Raffaele Macciocchi ("the applicant"), on 18 September 1998. The applicant is represented by Mr V. La Brocca and Mr S. Rando, two lawyers practising in Benevento. The Italian Government is represented by their Agent, Mr U. Leanza.

2. The applicant complained under Article 6 § 1 of the Convention about the length of a set of criminal proceedings. Following the entry into force of Protocol No. 11 to the Convention on 1 November 1998 and in accordance with the provisions of Article 5 § 2 thereof, the application was transferred to the Court.

3. In accordance with Rule 52 § 1 of the Rules of Court, the President of the Court, Mr L. Wildhaber, assigned the case to the Second Section. The Chamber constituted within the Section included *ex officio* Mr B. Conforti, the judge elected in respect of Italy (Article 27 § 2 of the Convention and Rule 26 § 1 (a) of the Rules of Court), and Mr C. L. Rozakis, the President of the Section (Rule 26 § 1 (a)). The other members designated by the latter to complete the Chamber were Mr M. Fischbach, Mr P. Lorenzen, Mrs M. Tsatsa-Nikolovska, Mr A.B. Baka and Mr E. Levits (Rule 26 § 1 (b)).

4. On 15 December 1998 the Court decided to give notice of the application to the respondent Government and invited them to submit their observations on its admissibility and merits. The Government submitted their observations on 19 March 1998 to which the applicant replied on 28 April 1998.

5. On 15 June 1999 the Court declared the application admissible.

6. On 31 August 1999, after an exchange of correspondence, the Section Registrar proposed to the parties to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 15 and 21 September 1999 respectively the applicant's representatives and the Government submitted formal declarations accepting a friendly settlement of the case.

## AS TO THE FACTS

7. On 26 December 1992 the Benevento Public Prosecutor's Office commenced criminal proceedings against the applicant on charges of forgery and misconduct in the course of his duties as a member of the City Council. On 8 May 1993 the Public Prosecutor's Office requested the Benevento investigating judge to prolong the maximum period for the duration of the investigations. This request, which had been granted by the investigating judge, was subsequently served on the applicant, who was thus given official notification of the charges brought against him. In an order of 11 January 1994, the Benevento investigating judge committed the applicant and seven other persons for trial before the Benevento District Court. In a judgment of 15 June 1998, filed with the registry on 22 June 1998, the District Court acquitted the applicant and all his co-accused.

## AS TO THE LAW

8. On 23 September 1999 the Court received the following declaration by the Italian Government:

"I declare that with a view to securing a friendly settlement of the case originated in application No. 43584/98, introduced by Mr Raffaele Macciocchi, the Government of Italy offer to pay to him 19,000,000 ITL (14,000,000 ITL for damage and 5,000,000 ITL for legal costs). This sum will be payable immediately after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government of Italy further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment."

9. On 15 September 1999 the Court received the following declaration signed by the applicant's representatives:

"I note that the Government of Italy are prepared to pay 19,000,000 ITL (14,000,000 ITL for pecuniary and non-pecuniary damage and 5,000,000 ITL for legal costs) to Mr Raffaele Macciocchi with a view to securing a friendly settlement of application no. 43584/98 pending before the Court.

I accept the proposal and waive any further claims in respect of Italy relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request the reference of the case to the Grand Chamber pursuant to Article 43 § 1 of the Convention after the delivery of the Court's judgment."

10. The Court takes note of the agreement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

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

#### FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list.
2. *Takes note* of the parties' undertaking not to request a re-hearing of the case before the Grand Chamber.

Done in English, then sent as a certified copy on 19 October 1999, according to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH  
Registrar

Christos ROZAKIS  
President