



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

SECOND SECTION

CASES OF FERRARA and DE LORENZO v. ITALY

(Applications nos. 40282/98 and 40283/98)

JUDGMENT

STRASBOURG

26 October 1999

In the cases of Ferrara and De Lorenzo 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 14 October 1999,

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

PROCEDURE

1. The case originated in two applications (nos. 40282/98 and 40283/98) 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 two Italian nationals, Mr Salvatore Ferrara and Mr Mario De Lorenzo (“the applicants”), on 27 and 26 February 1998 respectively. The applicants are represented by Mr S. Ferrara, a lawyer practising in Benevento. The Italian Government is represented by their Agent, Mr U. Leanza.

2. The applicants complained under Article 6 § 1 of the Convention about the length of a set of criminal proceedings. On 2 July 1998 the Commission (First Chamber) decided to join the applications and to give notice of them to the respondent Government, who were invited to submit their observations on the admissibility and merits of the applications. The Government submitted their observations on 6 November 1998 to which the applicants replied on 16 January 1999.

3. 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 applications were transferred to the Court.

4. 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)).

5. On 23 March 1999 the Court declared the applications admissible.

6. On 24 June 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 23 August 1999 and on 3 September 1999 respectively the applicants' representatives and the Agent of the Government submitted formal declarations accepting a friendly settlement of the cases.

AS TO THE FACTS

7. On 15 October 1992, the Benevento Public Prosecutor's Office requested that the applicants and thirteen other persons be committed for trial on charges of aggravated abuse of public authority ("*abuso d'ufficio*") and neglect of duties. In a judgment of 8 February 1994, the Benevento investigating judge acquitted the second applicant and one of his co-accused with respect to the charge of neglect of duties. In an order of the same day, he committed the applicants and twelve other persons for trial before the Benevento District Court on charge of abuse of public authority. In a judgment of 7 November 1997, filed with the registry on 2 December 1997, the District Court acquitted the applicants and all their co-accused. This decision became final on 16 January 1998.

AS TO THE LAW

8. On 7 September 1999 the Court received the following declaration by the Italian Government:

"I declare that the Government of Italy offer to pay 32 million Italian Lire to Mr Ferrara and Mr De Lorenzo with a view to securing a friendly settlement of the applications registered under nos. 40282/98 and 40283/98. This sum shall cover any non-pecuniary damage (13 million Italian Lire for each applicant) as well as legal costs (6 million Italian Lire for both applicants), and it 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 cases.

This declaration does not entail any acknowledgement by the Government of a violation of the European Convention on Human Rights in the present cases.

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

9. On 24 September 1999 the Court received the following declaration signed by the applicants' representatives:

"I note that the Government of Italy are prepared to pay 32 million Italian Lire to Mr Ferrara and De Lorenzo (13 million for non-pecuniary damage to each applicant and 6 million for legal costs to both applicants) with a view to securing a friendly settlement of applications no. 40282/98 and 40283/98 pending before the Court.

I accept the proposal and waive any further claims in respect of Italy relating to the facts of these applications. I declare that the cases are definitely settled.

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

I further undertake not to request the reference of the cases 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 (Article 39 of the Convention). 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 cases should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

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

Done in English, then notified in writing on 26 October 1999, according to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President