



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

SECOND SECTION

CASE OF MARRAZZO v. ITALY

(Application no. 41203/98)

JUDGMENT

STRASBOURG

28 March 2000

This judgment is subject to editorial revision before its reproduction in final form in the official reports of selected judgments and decisions of the Court.

In the case of Antonio Marrazzo 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 16 March 2000

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

PROCEDURE

1. The case originated in an application (no. 41203/98) against Italy lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mr Antonio Marrazzo (“the applicant”), on 30 December 1997. The applicant is represented by Mr Andrea Di Maio, a teacher residing in Quintiliano. The Italian Government are represented by their Agent, Mr U. Leanza, assisted by the Co-Agent, Mr V. Esposito.

2. The applicant complained under Article 6 § 1 of the Convention about the length of a set of criminal proceedings. On 10 September 1998 the Commission (First Chamber) 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 1 December 1998, to which the applicant replied on 1 February 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 application was 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) of the Rules of the Court).

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

6. On 7 June 1999 the applicant made a friendly settlement proposal. On 24 July 1999 the Section Registrar proposed to the Government to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention on the basis of the applicant's proposal. By a letter of 9 July 1999, received by the Court on 21 December 1999, the Agent of the Government formally accepted the friendly settlement proposal.

AS TO THE FACTS

7. On 26 September 1991 the Qualiano police seized a cottage belonging to the applicant. Criminal proceedings were subsequently instituted against him for having built the said cottage without a building permit. On 20 November 1993 the Public Prosecutor committed the applicant for trial, commencing on 21 June 1994, before the Marano (Naples) Magistrate. By a judgment of 12 December 1995, the Marano Magistrate sentenced the applicant to three months' imprisonment and to a fine of 42,000,000 lire. He furthermore ordered that the applicant's cottage be demolished. The applicant lodged an appeal with the Naples Court of Appeal seeking an acquittal or, alternatively, a declaration that the charge against him was time-barred. By a judgment of 9 July 1997, the Naples Court of Appeal held that the charge against the applicant was time-barred. This decision became final on 16 October 1997. On 23 November 1997 the Qualiano police lifted the seizure of the applicant's cottage.

AS TO THE LAW

8. On 21 June 1999 the Court received the following letter from the applicant's representative (extract translation from Italian into English):

“(...) With regard to the above mentioned application, I am glad to inform you that the applicant is in favour of a friendly settlement.

(...) I would then propose the global sum of 6,000,000 Italian lire (...)”

9. On 21 December 1999 the Court received from the Agent of the Government the following letter (extract translation from French into English):

“(...) I have the honour to inform you that the Italian Government accept the applicant's friendly settlement proposal. (...) Accordingly, the Government will pay to the applicant 6,000,000 Italian lire covering any pecuniary and non-pecuniary damage as well as legal costs (...)”

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 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 notified in writing on 28 March 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President