



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

SECOND SECTION

**CASE OF GIANNANGELI v. ITALY**

*(Application no. 41094/98)*

JUDGMENT

STRASBOURG

5 July 2001

**FINAL**

*05/10/2001*

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.



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

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

Mr C.L. ROZAKIS, *President*,

Mr A.B. BAKA,

Mr G. BONELLO,

Mr P. LORENZEN,

Mr M. FISCHBACH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr V. ZAGREBELSKY, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 21 October 1999 and on 14 June 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

**PROCEDURE**

1. The case originated in an application (no. 41094/98) 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 Rocco Sandro Giannangeli (“the applicant”), on 30 December 1997.

2. The applicant was represented by Mr L. Rossi and Mr M. Antonio Rossi, two lawyers practising in L’Aquila. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, assisted by their Co-Agent, Mr V. Esposito.

3. The applicant complained under Article 6 § 1 of the Convention about the length of a set of criminal proceedings.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

6. By a decision of 21 October 1999 the Court declared the application admissible.

## THE FACTS

7. The applicant was born in 1959 and is currently residing in Sulmona (L'Aquila).

8. On 16 February 1991 the applicant endorsed a cheque payable to X, who on 20 February 1991 presented it to a bank in order to cash it. As the relevant chequebook had previously been stolen from Y, the bank informed the police which seized the cheque and reported the incident to the Public Prosecutor's Office attached to the Sulmona Magistrates' Court.

9. By an order of 10 November 1992 the Public Prosecutor committed the applicant for trial, commencing on 9 December 1993 before the Sulmona Magistrate, on charges of money laundering, forgery and fraud. On 12 November 1992, this order was served on the applicant, who was thus informed of the charges brought against him.

10. On 9 December 1993 the Magistrate severed the proceedings concerning the first accusation from those concerning the two others. In a decision of the same day, he discontinued the latter proceedings for lack of a formal criminal complaint against the applicant. A witness was examined in connection with the first charge and proceedings were adjourned until 16 June 1994.

11. The hearing of 16 June 1994 was postponed to 1 March 1995, because the lawyers were on strike from 13 until 18 June 1994. The case was then re-listed for 2 March 1995. However, this hearing was postponed to 15 February 1996, due to a legitimate impediment of the applicant's counsel. The case was then re-listed for 23 January 1997. At this hearing, however, the proceedings were postponed until 10 July 1997, due to excessive workload, then adjourned until 20 November 1997 in order to examine a witness who failed to appear.

12. In a judgment of 20 November 1997, filed with the registry on 27 November 1997, the Magistrate acquitted the applicant. This decision became final on 4 January 1998.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

13. The applicant complains about the length of the criminal proceedings against him. He alleges a violation of Article 6 § 1 of the Convention, which, as far as relevant, reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

### A. Period to be taken into consideration

14. The proceedings began on 12 November 1992, when the applicant was informed of the charges brought against him, and ended on 4 January 1998, when the Sulmona Magistrate's judgment became final.

15. They thus lasted five years, one month and twenty-three days for one instance.

### B. Reasonableness of the length of the proceedings

16. According to the Court's case-law, the reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case and the conduct of the applicant and of the authorities dealing with the case (see, among other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Philis v. Greece* (no. 2) judgment of 27 June 1997, *Reports* 1997-IV, p. 1083, § 35).

17. According to the applicant, the overall duration of the proceedings is in breach of the "reasonable time" requirement. The Government disputed this claim, observing that several hearings were postponed either by reason of a legitimate impediment of the applicant's counsel, or because of the absence of a witness, or finally because of lawyers' strikes.

18. The Court first notes that the case was not complex. As to the applicant's conduct, it observes that the hearing of 2 March 1995 was adjourned until 15 February 1996 due to a legitimate impediment of the applicant's counsel. Even if this adjournment was requested by the applicant and he may be considered partly responsible for the delay which resulted, this cannot justify the delay of almost one year in rehearing the case (see the *Zana v. Turkey* judgment of 25 November 1997, *Reports* 1997-VII, p. 2552, § 79). The Court moreover notes that the hearing of 16 June 1994 was postponed because the lawyers were on strike from 13 until 18 June 1994. In this respect, the Court recalls that a delay in the criminal proceedings caused by a lawyers' strike cannot be attributed to the State, whereas the period of time elapsed between the end of the strike and the new hearing is to be imputed to the conduct of the authorities (see the *Portington v. Greece* judgment of 23 September 1998, *Reports* 1998-VI, p. 2633, § 33). The Court is not unaware of the complications which strikes may cause by overloading the list of cases to be heard by courts (see, *mutatis mutandis*, the *Papageorgiou v. Greece* judgment of 22 October 1997, *Reports* 1997-VI, p. 2291, § 48). Nevertheless, having regard to the fact that the following hearing was fixed at 1 March 1995, which is more than eight months after the end of the strike, the Court considers that this period must be imputed, at least partly, to the State authorities.

19. As regards the conduct of the State authorities, the Court observes that there has been a period of inactivity which has not been justified: between 12 November 1992, when the committal for trial was served on the applicant, and 9 December 1993, the date of the first hearing. Moreover, the hearing of 15 February 1996 was adjourned by the Magistrate's own motion first until 23 January and then until 10 July 1997. These delays, which amount to a global period of more than two years and five months, cannot be excused by the volume of work with which the Sulmona Magistrate had to deal at the relevant period. In this respect, the Court recalls that Article 6 § 1 imposes on Contracting States the duty to organise their judicial systems in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time (*Portington v. Greece* judgment of 23 September 1998, *Reports* 1998-VI, p. 2633, § 33).

20. Having regard to the conduct of the authorities dealing with the case, the Court considers that an overall length of five years, one month and twenty-three days for one instance is excessive. There has accordingly been a violation of Article 6 § 1 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

### A. Damage

22. The applicant seeks ITL 4,000,000 per year of duration for non-pecuniary damage.

23. The Government maintained that a finding of a violation of the Convention would constitute sufficient just satisfaction.

24. The Court accepts that the applicant suffered damage of a non-pecuniary nature as a result of the length of the criminal proceedings. Making its assessment on an equitable basis and having regard to the circumstances of the case, the Court awards the applicant ITL 13,000,000.

### B. Costs and expenses

25. The applicant claims ITL 22,915,728 for legal costs and expenses incurred in the preparation of his case before the Commission and the Court. In that respect, the applicant's lawyers have requested that their fees

(ITL 11,457,864 each) be paid directly to them. The applicant does not claim any reimbursement of costs incurred before the domestic courts.

26. The Government left the matter to be assessed by the Court in an equitable manner.

27. As to the legal costs and expenses incurred before the Convention organs, the Court, deciding on an equitable basis, awards the applicant ITL 5,000,000. It moreover observes that the applicant's lawyers have failed to produce, as requested by the Court's registry, a declaration signed by their client and indicating the sums which they were paid on account. In these circumstances, the Court cannot accept the lawyers' request to pay the legal costs directly to them. The payment should therefore be made to the applicant.

### C. Default interest

28. According to the information available to the Court, the statutory rate of interest applicable in Italy at the date of adoption of the present judgment is 3,5% per annum.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
2. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts: ITL 13,000,000 (thirteen millions), for non-pecuniary damage and ITL 5,000,000 (five millions), for costs and expenses;
  - (b) that simple interest at an annual rate of 3,5 % shall be payable from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 5 July 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH  
Registrar

Christos ROZAKIS  
President