



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

FIRST SECTION

CASE OF DEL FEDERICO v. ITALY

(Application no. 35991/97)

JUDGMENT

STRASBOURG

4 July 2002

FINAL

04/10/2002

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 Del Federico v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mrs F. TULKENS,

Mr G. BONELLO,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mrs S. BOTOCHAROVA,

Mr V. ZAGREBELSKY, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 20 June 2002,

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

PROCEDURE

1. The case originated in an application (no. 35991/97) against the Italian Republic 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 Alberto Del Federico (“the applicant”), on 19 December 1996.

2. The applicant was represented by Ms Nicoletta Peling, a lawyer practising in Falconara Marittima (Ancona). 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 15 March 2001 the Court declared the application partly admissible.

7. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

8. On 9 December 1985 the applicant, accused of theft and possession of drugs, was arrested and placed in detention on remand. He was released on 21 January 1986.

9. In an order of 27 May 1986, the Ancona investigating judge committed the applicant and fifty-eight other persons for trial before the Ancona District Court.

10. On 2 September 1986 the President of the Ancona District Court scheduled the date of the first hearing for 12 November 1986.

11. In a judgment of 5 March 1987, filed with the registry on 20 March 1987, the District Court acquitted the applicant for lack of evidence (*“insufficienza di prove”*). A number of his co-accused were sentenced to heavy penalties.

12. The applicant, together with fourteen other accused, lodged an appeal with the Ancona Court of Appeal in order to obtain a more favourable acquittal formula.

13. On 17 February 1988 the case-file was forwarded to the Court of Appeal.

14. The trial hearing, initially scheduled for 16 April 1996, was adjourned until 13 December 1996.

15. In a judgment of the same day, filed with the registry on 10 January 1997, the Court of Appeal acquitted the applicant. This decision became final on 2 February 1997.

THE LAW

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

16. 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 ...”

17. The Government reject this allegation on the ground that the case was complex especially by reason of the extensive evidence to be examined. They furthermore observe that, as reasonable doubts could be raised as to

the criminal liability of the applicant, the national judges were under a duty to carefully analyse the evidence before them. Finally, they stress that the proceeding did not end within a more reasonable time due to the chronic lack of manpower of the Court of Appeal of Ancona.

A. Period to be taken into consideration

18. The relevant period began on 9 December 1985, when the applicant was arrested, and ended on 2 February 1997, when the Court of Appeal's judgement became final.

19. It therefore lasted eleven years, one month and twenty-four days for two instances.

B. Reasonableness of the length of the proceedings

20. 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 of judgments and decisions* 1997-IV, p. 1083, § 35).

21. The Court first notes that the case was complex by reason that fifty-nine accused were involved. The Court has not identified any delay in the proceedings which is attributable to the applicant's conduct. However, it finds that there is a period of inactivity imputable to the authorities dealing with the case: between 17 February 1988, date on which the case-file was forwarded to the Court of Appeal, and 13 December 1996, when the first trial hearing, initially scheduled for 16 April 1996, was adjourned. The Government did not provide any explanation for this delay which amounts to a global period of more than eight years and nine months. The Court recalls that Article 6 § 1 of the Convention imposes on the Contracting States the duty to organise their judicial systems in such a way that their courts can meet the requirements of this provision (*Portington v. Greece* judgement of 23 September 1998, *Reports* 1998-VI, p. 2633, § 33).

22. In these circumstances, the Court finds that a global period of eleven years, one month and twenty-four days for two instances fails to satisfy the "reasonable time" requirement.

23. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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

25. The applicant seeks 100,000,000 Italian lire (ITL), that sum being intended to cover both pecuniary and non-pecuniary damage. As regards the pecuniary damage the applicant stresses that the overall length of the proceeding, the nature of the legal issues involved and the stigma associated with being a drug trafficker prevented him from finding a suitable permanent job in his town and made him go abroad to Germany. As regards the non-pecuniary damage, the applicant alleges that he sustained non-pecuniary damage through anxiety and depression which led him to be hospitalised. However, the applicant left the matter to be assessed by the Court in an equitable manner.

26. The Government maintained that the applicant had failed to adduce evidence of any pecuniary damage sustained as a result of the length of the proceedings in question. As regards non-pecuniary damage, if any, the Government submitted that the finding of a violation would in itself constitute adequate just satisfaction.

27. As regards pecuniary damage, the Court agrees with the Government. However, the Court considers that the applicant did sustain some non-pecuniary damage and, making an assessment on an equitable basis, it awards him 10,000 euros.

B. Default interest

28. The Court considers that the default interest should be fixed at an annual rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

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, EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage;
 - (b) that simple interest at an annual rate equal to the marginal lending rate of the European Central Bank plus three percentage points shall be payable from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 4 July 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President