

**Press release issued by the Registrar**

**Chamber judgment<sup>1</sup>**

**[Case of Maiorano and Others v. Italy](#)** (application no. 28634/06)

**State was responsible in respect of double murder committed by dangerous offender on day release and failed to conduct a satisfactory investigation into individual negligence within the judicial system**

Unanimously

***Violation of Article 2 (right to life)***  
***of the European Convention on Human Rights***

(The judgment is available only in French)

**Principal facts**

The applicants, Roberta Maiorano, Immacolata Maiorano, Vincenza Maiorano, Mario Maiorano, Monica Maiorano, Matilde Cristofalo, Giovanni Maiorano and Cesare Maiorano, are Italian nationals who were born in 1968, 1959, 1964, 1956, 1973, 1937, 1955 and 1931 respectively. They live in the province of Lecce (Italy). They are relatives of Ms Maria Carmela Linciano and Ms Valentina Maiorano, who were murdered in 2005 by Mr Angelo Izzo.

In 1975, with two accomplices, Angelo Izzo held two young women in illegal confinement and subjected them, for several days, to rape and brutal abuse. One of them, who had been left for dead in the boot of a car with the corpse of her friend, had managed to attract the attention of the police. Izzo was quickly arrested and in 1976 was sentenced to life imprisonment. The Italian press at the time named this crime the “Circeo massacre”, after the seaside resort where it took place.

In 1992, in spite of the numerous incidents in which he had been involved during his time in prison, leading to further convictions, and in particular an escape attempt with hostage-taking, Angelo Izzo began to benefit from periods of prison leave. The probation officers responsible for his assessment took the view that he had undertaken some self-analysis and had developed a significant feeling of guilt about the offences he had committed. On one occasion he failed to return to prison after his leave. He was arrested in France in 1993 with false identity documents and a large sum of money. The police authorities established that

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<sup>1</sup> Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

while he was on the run he had been helped by certain criminal organisations. He was sent back to Italy to serve the remainder of his prison sentences.

From 1999 onwards Angelo Izzo was again granted release on temporary licence, in particular for good conduct. In October 2003, after being allowed to leave prison by the sentence execution judge of Campobasso, provided that he did not frequent anyone with a criminal record, the *carabinieri* found him in a hotel room with a youth who was known to the police. They also noticed that three minors had been in his room shortly before. The youth and one of those minors were the sons of a fellow prisoner. Angelo Izzo was subsequently transferred to Palermo prison.

On 15 November 2004 Mr Izzo was granted day release by the sentence execution court of Palermo. That decision was taken on the basis of a comprehensive dossier containing an expert psychiatrist's report and probation officers' reports that were favourable to him. The day release scheme was implemented from 27 December 2004 onwards, under the supervision of the sentence execution judge of Campobasso, as Mr Izzo had in the meantime returned to Campobasso prison. The scheme included a resettlement programme and was subject to a certain number of restrictions, including an obligation to spend the night in prison and not to frequent anyone who was a repeat offender, outside the association which had agreed to employ him. The aim of this association was to assist in the rehabilitation of prisoners and other marginal groups.

On 25 August 2004 a fellow prisoner informed the police that Angelo Izzo had engaged him to kill the president of the sentence execution court of Campobasso. The police monitored calls made on his mobile phones and from phone boxes and discovered that he had re-established contacts with the criminal underworld. A second fellow prisoner informed the authorities about regular proposals he had received from Mr Izzo to participate in criminal activities. As it was waiting to ascertain whether Mr Izzo had actually re-offended, the public prosecutor's office did not forward this information to the sentence execution judge. The day release scheme was therefore maintained.

While on day release Angelo Izzo planned and carried out, with the help of two accomplices, the double murder of Maria Carmela Linciano and Valentina Maiorano, the wife and daughter of the seventh applicant, Giovanni Maiorano, a prisoner Mr Izzo had known in Palermo prison. The crime was discovered after one of his accomplices had been arrested in possession of a weapon. The victims' bodies were found the next day buried in a garden. By his own admission, Izzo had murdered them without any particular motive and had "felt elated" while he was doing it. He was sentenced once again to life imprisonment.

On 3 May 2005 the Minister of Justice opened an administrative inquiry to determine whether, in the procedure whereby Angelo Izzo had been granted day release, the judges of the sentence execution court of Palermo were accountable for disciplinary purposes. On 14 March 2008 the National Legal Service Council issued the judges concerned with a "reprimand", taking the view that in assessing Angelo Izzo's behaviour they had not taken into account the fact that he had already breached some of the rules governing his release on temporary licence.

On 20 September 2007 the applicants filed a criminal complaint against the public prosecutors of Campobasso and Bari, who, they alleged, should have forwarded to the sentence execution courts the information from Mr Izzo's two fellow prisoners about his suspicious behaviour and in particular his intention to commit a murder. That complaint was not acted upon.

## **Complaints, procedure and composition of the Court**

The applicants alleged that by allowing Angelo Izzo to benefit from a day release scheme, the authorities had failed to protect the lives of Maria Carmela Linciano and Valentina Maiorano. The application was lodged with the Court on 5 July 2006.

Judgment was given by a Chamber of seven judges composed as follows:

Françoise **Tulkens** (Belgium), **President**,  
Ireneu **Cabral Barreto** (Portugal),  
Vladimiro **Zagrebelsky** (Italy),  
Danutė **Jočienė** (Lithuania),  
Dragoljub **Popović** (Serbia),  
András **Sajó** (Hungary),  
Kristina **Pardalos** (San-Marino), **judges**,

and Françoise **Elens-Passos**, **Deputy Section Registrar**.

## **Decision of the Court**

### Substantive limb of Article 2

The Court reiterated that Article 2 of the Convention enjoined the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction. In some cases there might be a requirement of personal protection of one or more individuals identifiable in advance as the potential target of a lethal act. In other cases it might be necessary to afford general protection to society against the potential acts of persons serving a prison sentence for a violent crime and to determine the scope of that protection.

In the present case, at the time Angelo Izzo was granted day release it had not been possible to identify Maria Carmela Linciano and Valentina Maiorano as potential targets of a lethal act on his part. The case thus concerned the obligation for the Italian judicial system to afford general protection to society against potential danger from a person who had been convicted for a violent crime.

In this connection, the Court could not find fault in general with the arrangements in Italy for the resettlement of prisoners. The system had a legitimate aim and provided for sufficient safeguards. However, the manner in which that system had been applied in Mr Izzo's precise case was questionable. Firstly, the Court noted that the positive factors which had led the Palermo sentence execution court to grant day release, in particular the favourable reports by probation officers and psychiatrists, had been counterbalanced by many indications to the contrary. Throughout his imprisonment Angelo Izzo had in fact regularly committed criminal offences and his behaviour had shown that he had a tendency to disrespect the law and authority. In view of the dangerousness of a repeat offender who had been convicted of exceptionally brutal crimes, those circumstances should have led the sentence execution court to be more prudent. Secondly, the Court noted that the public prosecutor of Campobasso had been promptly made aware of the fact that Angelo Izzo, once granted day release, had re-established contacts with the criminal underworld and was actively planning criminal acts. Despite the fact that it had taken this danger seriously, and had even ordered police surveillance, the public prosecutor's office had not informed the sentence execution judge with a view to the possible withdrawal of the day release scheme.

The Court took the view that the granting by the Palermo sentence execution court of day release to Angelo Izzo, despite his criminal record and behaviour in prison, together with the failure by the public prosecutor's office of Campobasso to forward information on his criminal activities to the sentence execution judge, had constituted a breach of the duty of care required by Article 2 of the Convention. Accordingly, the Court held unanimously that there had been a violation of Article 2 under its substantive head.

#### Procedural limb of Article 2

The Court reiterated that the positive obligations laid down in Article 2 of the Convention also required by implication that an efficient and independent judicial system should be set in place by which the cause of a murder could be established and the guilty parties punished, including where State agents or authorities were allegedly responsible.

In the present case, a criminal investigation into the murder of Maria Carmela Linciano and Valentina Maiorano had been opened quickly and had led to the sentencing of Angelo Izzo to life imprisonment. A disciplinary inquiry had also been conducted in order to determine the responsibilities of the judiciary in respect of this double murder.

However, whilst the Minister of Justice had brought disciplinary proceedings against the judges of the Palermo sentence execution court, as a result of which they had been reprimanded, the applicants' criminal complaint against the public prosecutors of Campobasso had not been acted upon and no disciplinary action had been taken against those prosecutors. Therefore, the State had not entirely fulfilled its positive obligation to ascertain whether any responsibility could be imputed to its agents in respect of the murder of Maria Carmela Linciano and Valentina Maiorano. The Court thus also held, unanimously, that there had been a violation of Article 2 of the Convention under its procedural head.

Under Article 41 (just satisfaction) of the Convention, the Court awarded 10,000 euros to Giovanni Maiorano and 5,000 euros to each of the other applicants in respect of non-pecuniary damage.

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***The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.***