



Death of a demonstrator at the 2001 G8 summit in Genoa: no violation

In today's Grand Chamber judgment in the case [Giuliani and Gaggio v. Italy](#) (application no. 23458/02) - which concerned the death of the applicants' son and brother, Carlo Giuliani, during clashes at the G8 summit held in Genoa from 19 to 21 July 2001 and which is final¹ - the European Court of Human Rights held:

By 13 votes to four, that there had been **no violation of Article 2 (right to life)** of the European Convention on Human Rights with regard to the use of lethal force;

By ten votes to seven, that there had been **no violation of Article 2** with regard to the domestic legislative framework governing the use of lethal force or with regard to the weapons issued to the law-enforcement agencies at the G8 summit in Genoa;

By ten votes to seven, that there had been **no violation of Article 2** with regard to the organisation and planning of the policing operations at the G8 summit in Genoa;

By ten votes to seven, that there had been **no violation of Article 2** with regard to the alleged lack of an effective investigation into the death;

Unanimously, that it was **not necessary to examine the case under Article 3 (prohibition of inhuman or degrading treatment) or Article 6 (right to a fair hearing)**;

By 13 votes to four, that there had been **no violation of Article 13 (right to an effective remedy)**;

Unanimously, that there had been **no violation of Article 38 (adversarial examination of the case)**.

Principal facts

The applicants, Giuliano Giuliani, his wife Adelaide Gaggio and their daughter Elena Giuliani, are Italian nationals who were born in 1938, 1944 and 1972 respectively and live in Genoa and Milan (Italy). They are the parents and sister of Carlo Giuliani.

On 20 July, during an authorised demonstration, extremely violent clashes broke out between anti-globalisation activists and the law-enforcement agencies (18,000 officers stationed in Genoa for the G8 summit). At around 5 p.m., under pressure from demonstrators, a group of *carabinieri* – who had withdrawn in order to rest, regroup and allow injured officers to board jeeps – retreated on foot, leaving two of the jeeps stranded. One of the vehicles, with three *carabinieri* on board, remained hemmed in on Piazza Alimonda. It was surrounded and violently attacked by a group of demonstrators, some of them armed with crowbars, pickaxes, stones and other blunt instruments. One

¹ Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

of the *carabinieri*, who had been injured, drew his firearm and, after giving a warning, fired two shots outside the vehicle. Carlo Giuliani, who was wearing a balaclava and was playing an active part in the attack, was fatally wounded by a bullet to the face. In an attempt to move the vehicle away, the driver drove twice over the young man's body as he lay dying. When the demonstrators had been dispersed, a doctor arrived at the scene and pronounced Carlo Giuliani dead.

An investigation was opened immediately by the Italian authorities. Criminal proceedings on charges of intentional homicide were instituted against the officer who had fired the shots and the driver of the vehicle. An autopsy performed within 24 hours of the death revealed that Carlo Giuliani had been killed by the shot and not by the attempts to drive the vehicle away. The forensic expert found that the shot had been fired at a downward angle.

At the public prosecutor's request three expert reports were prepared. In the third report, submitted in June 2002, a panel of four experts (one of whom had written an article in a specialist journal supporting the view that the *carabiniere* had fired the shots in self-defence) deplored the fact that it had been impossible to examine the body since the public prosecutor had in the meantime authorised the family to have it cremated. The experts nevertheless concluded that the *carabiniere* had fired upwards but that the bullet had been deflected by a stone thrown at the vehicle by another demonstrator.

On 5 May 2003 the investigating judge discontinued the proceedings. She found that the driver of the vehicle, whose actions had resulted only in bruising, could not be held responsible for the death as he had been unable to see Carlo Giuliani because of the confusion prevailing around the vehicle. As to the officer who had fired the fatal shot, the judge took the view that he had fired into the air without intent to kill and had in any case acted in self-defence, in view of the violent attack to which he and his colleagues were being subjected.

Complaints, procedure and composition of the Court

Relying on Article 2, the applicants alleged that Carlo Giuliani's death had been caused by excessive use of force, that there had been shortcomings in the domestic legislative framework (as a result of which the adverse consequences of the use of force had not been reduced as far as possible), that the organisation of the operations to maintain and restore public order had been defective and, finally, that there had been no effective investigation into Carlo Giuliani's death. Relying on Article 3, they further argued that the failure to render immediate assistance to Carlo Giuliani after he had fallen down, and the fact that a jeep had driven over his body, had contributed to his death and amounted to inhuman treatment. They also complained under Articles 6 and 13 that the investigation had been ineffective. Lastly, they alleged that the Italian Government had acted in breach of Article 38 by failing to provide information to the Court or submitting inaccurate information.

The application was lodged with the European Court of Human Rights on 18 June 2002 and was declared admissible on 6 February 2007. In its [Chamber judgment of 25 August 2009](#) the Court held unanimously that there had been no violation of Article 2 regarding the allegedly excessive use of force; by five votes to two that there had been no violation of Article 2 regarding the State's positive obligation to protect life; by four votes to three that there had been a violation of Article 2 regarding the procedural obligations arising from that Article; and, unanimously, that there had been no violation of Article 38. It also held unanimously that it was unnecessary to examine the case under Articles 3, 6 and 13. On 1 March 2010 a panel of five judges of the Grand Chamber decided to accept the requests for referral to the Grand Chamber submitted by the Italian Government and by the applicants. A [Grand Chamber hearing](#) was held on 29 September 2010 in Strasbourg (webcast available [here](#)).

Judgment was given by the Grand Chamber of 17, composed as follows:

Jean-Paul **Costa** (France), *President*,
Christos **Rozakis** (Greece),
Françoise **Tulkens** (Belgium),
Ireneu **Cabral Barreto** (Portugal),
Boštjan M. **Zupančič** (Slovenia),
Nina **Vajić** (Croatia),
Elisabeth **Steiner** (Austria),
Alvina **Gyulumyan** (Armenia),
Renate **Jaeger** (Germany),
David Thór **Björgvinsson** (Iceland),
Ineta **Ziemele** (Latvia),
Isabelle **Berro-Lefèvre** (Monaco),
Ledi **Bianku** (Albania),
Nona **Tsotsoria** (Georgia),
Zdravka **Kalaydjieva** (Bulgaria),
Işıl **Karakaş** (Turkey),
Guido **Raimondi** (Italy), *Judges*,

and also Vincent **Berger**, *Jurisconsult*.

Decision of the Court

[Article 2 \(right to life\)](#)

Use of lethal force

The Court – which had had the opportunity to view video footage and photographs of the incident giving rise to the case – noted that the officer who had fired the shots had been confronted with a group of demonstrators conducting an unlawful and very violent attack on the vehicle in which he was stranded. In the Court’s view, he had acted in the honest belief that his own life and physical integrity and those of his colleagues were in danger from the attack to which they were being subjected. Moreover, it was clear from the evidence at the Court’s disposal that the *carabiniere* had given a warning while holding his weapon in a clearly visible manner, and that he had fired the shots only when the attack had not ceased. In those circumstances, the use of a potentially lethal means of defence such as the firing of shots had been justified.

It was not necessary for the Court to examine the well-foundedness of the theory – disputed by the applicants – that the bullet had been deflected. The Court simply observed (on the basis of the conclusions of the Genoa investigating judge and the images viewed by it) that the officer could only fire, in order to defend himself, into the narrow space between the spare wheel and the roof of the jeep. The fact that a shot fired into that space risked causing injury to one of the assailants, or even killing him, as had sadly been the case, did not in itself mean that the defensive action had been excessive or disproportionate.

The Court therefore concluded that the use of force by the *carabiniere* concerned had been absolutely necessary within the meaning of the Convention and that there had been no violation of Article 2 in that regard.

Whether Italy had taken the necessary legislative, administrative and regulatory measures to reduce as far as possible the adverse consequences of the use of force

The Court noted first of all that the wording of the provisions governing the use of force in the applicants' case (Articles 52 and 53 of the Criminal Code), although not identical to that of Article 2 of the Convention, nevertheless echoed it, and that the difference in wording could be overcome by the interpretation of the domestic courts (the Court referred in that connection to the relevant domestic case-law).

It went on to examine the argument that the law-enforcement agencies should have been issued with non-lethal weapons, but found that such discussions were not relevant in the applicants' case, in which the death had occurred during a sudden and violent attack which posed an imminent and serious threat to the lives of three *carabinieri*. There was no basis in the Convention for concluding that law-enforcement officers should not be entitled to have lethal weapons at their disposal to counter such attacks.

Lastly, the Court noted the applicants' allegation that some *carabinieri* had used non-regulation weapons (metal batons) against the rioters, but saw no connection with the death of Carlo Giuliani.

Accordingly, there had been no violation of Article 2 with regard to that complaint.

Organisation of the public-order operations²

The Court observed that the attack on the jeep had taken place at a time of relative calm following a long day of clashes, when the detachment of *carabinieri* had withdrawn in order to rest, regroup and allow the injured officers to board the jeeps: it could not have been predicted that an attack of such violence would take place in that precise location and in those circumstances. Furthermore, the Government had deployed 18,000 officers, who either belonged to specialised units or (like the *carabiniere* who fired the shot which struck Carlo Giuliani) had received special training. Likewise, the Court did not criticise the decisions taken by the *carabinieri* immediately prior to the attack on the jeep (such as allowing the injured officers to take cover in non-armoured vehicles). Finally, there was no evidence that the assistance rendered to Carlo Giuliani had been inadequate or delayed or that the jeep had driven over his body intentionally; in any event, as was clear from the autopsy report, the damage to the brain had been so severe that it resulted in death within a few minutes.

Accordingly, the Italian authorities had not failed in their obligation to do all that could reasonably be expected of them to provide the level of safeguards required during operations potentially involving the use of lethal force. The Court found that there had been no violation of Article 2 in this respect either.

Alleged lack of an effective investigation into the death

The information obtained by the domestic investigation had provided the Court with sufficient evidence to satisfy it that Italy's responsibility could not be engaged in any respect in connection with the death of Carlo Giuliani (see above). The investigation had therefore been sufficiently effective to enable it to be determined whether the use of lethal force had been justified and whether the organisation and planning of the policing operations had been compatible with the obligation to protect life.

² The Court stressed that the present application did not concern the organisation of the public-order operations during the G8 as a whole, but was confined to examining whether, in the organisation and planning of that event, failings had occurred which could be linked directly to the death of Carlo Giuliani.

The Court nevertheless had to examine three questions.

Firstly, it had to determine whether the applicants had had sufficient access to the investigation to “safeguard their legitimate interests”. In that connection it noted in particular that, although the applicants had not been able to apply to join the proceedings as civil parties, Italian law had afforded them, in their capacity as injured parties, rights and powers which they had exercised during the investigation. While it was true that they had been unable to appoint an expert of their choosing and secure the latter’s attendance at the forensic examinations, Article 2 did not require that the victim’s relatives be afforded that possibility. Furthermore, the applicants had not furnished evidence of serious failings in the autopsy and, in any case, the cause of Carlo Giuliani’s death (the bullet fired by the *carabiniere*) was clear. Admittedly, the parties disagreed as to whether the bullet had been deflected by another object. However, the Court pointed out that this issue was not crucial as the use of force would have been justified even if that theory had been dismissed. The Court further observed that the authorisation to cremate Carlo Giuliani’s body, which made any further forensic tests impossible, had been granted at the applicants’ request.

Secondly, the Court had to be satisfied that those in charge of the investigation had been independent from those implicated in the events. The main issue in that regard concerned the appointment in the course of the domestic investigation of an expert who had preconceived ideas, having published an article in which he openly defended the view that the officer concerned had acted in self-defence. However, the expert in question had been just one member of a four-person team, who had been appointed by the prosecuting authorities (and was therefore not acting as a neutral and impartial auxiliary of the judge), and whose involvement had been largely confined to carrying out technical tests for the purposes of the ballistics report. Accordingly, his presence was not capable in itself of compromising the impartiality of the investigation.

Lastly, the Court had to determine whether the proceedings had been conducted with the promptness required by the Court’s case-law. As the domestic investigation had lasted for approximately one year and four months after Carlo Giuliani’s death, that requirement had been satisfied.

The Court concluded that there had likewise been no violation of Article 2 with regard to the investigation.

Article 3 (prohibition of inhuman or degrading treatment)

As the Court had already examined the facts on which the applicants based this complaint from the standpoint of Article 2, there was no reason to re-examine them under Article 3.

Article 6 (right to a fair hearing) and Article 13 (right to an effective remedy)

The applicants argued that, in view of the inconsistent and incomplete findings of the investigation, the case had required more detailed examination within a framework of genuine adversarial proceedings. In the Court’s view, that issue fell to be examined under Article 13 alone³. It pointed to its finding that an effective domestic investigation compatible with Article 2 had been conducted into the circumstances of Carlo Giuliani’s death. That investigation had been capable of leading to the identification and punishment of those responsible. Although the applicants had not been able to apply to

³ Article 6 applies only to the determination of “civil rights and obligations” or of “criminal” charges against the applicant or applicants. In the applicants’ case, since they did not face criminal charges, only the civil limb could possibly apply. Under Italian law, the applicants did not have the possibility of applying to join the criminal proceedings against the *carabiniere* as civil parties; the Court therefore considered it more appropriate to examine their complaints under Article 13.

join the proceedings as civil parties (since the criminal judge concluded that no punishable offence had been committed), they had nevertheless been able to exercise the powers afforded to injured parties under Italian law. Finally, it had been open to them to bring a civil action for compensation.

The applicants had therefore had effective remedies available to them in respect of their complaint under Article 2. Accordingly, there had been no violation of Article 13.

Article 38 (adversarial examination of the case)

The Court took the view that, even though the information provided to it by the Italian authorities was not exhaustive on some points, the incomplete nature of that information had not prevented it from examining the case.

There had therefore been no violation of Article 38.

Separate opinions

Three joint partly dissenting opinions are annexed to the judgment (joint partly dissenting opinion of Judges Rozakis, Tulkens, Zupančič, Gyulumyan, Ziemele, Kalaydjieva and Karakaş; joint partly dissenting opinion of Judges Tulkens, Zupančič, Gyulumyan and Karakaş; and joint partly dissenting opinion of Judges Tulkens, Zupančič, Ziemele and Kalaydjieva).

The judgment is available in English and French.

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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.