



Continued detention incompatible with a prisoner's state of health

In today's Chamber judgment in the case of [Contrada \(No. 2\) v. Italy](#) (application no. 7509/08), which is not final¹, the European Court of Human Rights held, by a majority, that there had been:

A violation of Article 3 (prohibition inhuman or degrading treatment) of the European Convention on Human Rights.

The case concerned the authorities' repeated refusal of a prisoner's requests for a stay of execution of his sentence or for the sentence to be converted to house arrest on account of his numerous health problems.

In the light of the medical certificates that had been available to the authorities and the length of time that elapsed before Mr Contrada was placed under house arrest, the Court held that his continued detention had been incompatible with the prohibition of inhuman and degrading treatment under the Convention.

Principal facts

The applicant, Bruno Contrada, is an Italian national who was born in 1931 and lives in Palermo (Italy).

On 5 April 1996 Mr Contrada was sentenced by the Palermo District Court to ten years' imprisonment for aiding and abetting a Mafia-type organisation. Between 1979 and 1988, in his capacity first as a police official and later as head of the private office of the High Commissioner for anti-Mafia activities and deputy director of the civilian secret services, he had allegedly contributed to the activities of the criminal organisation Cosa Nostra. The court based its judgment on a large number of witness statements, and in particular on the information supplied by several former members of the criminal organisation who had decided to cooperate with the authorities.

On 11 May 2007 Mr Contrada was placed in detention in Santa Maria Capua Vetere military prison. He wrote to the judge responsible for the execution of sentences informing the latter of the many medical conditions from which he suffered. The prison doctor confirmed that Mr Contrada had a number of health problems. On 24 October 2007 Mr Contrada applied to the judge for the first time requesting his release or a stay of execution of his sentence. He lodged seven further requests, all of which, like the first one, were rejected.

On 24 July 2008 the court responsible for the execution of sentences placed the applicant under house arrest for six months at the home of his sister. The applicant was forbidden any contact with persons other than family members and medical personnel. The court refused Mr Contrada's application for a stay of execution of his sentence, basing its decision on the danger which the applicant posed to society, the type of offence of which he had been convicted and the length of the sentence remaining to be served.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

On 11 October 2012 Mr Contrada was released having served his sentence.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant alleged that, in view of his age and his state of health, the repeated refusal of his requests for a stay of execution of his sentence or for the sentence to be converted to house arrest amounted to inhuman and degrading treatment.

Relying on Article 6 § 1 (right to a fair trial), Mr Contrada submitted that his case had not been heard by an independent and impartial court or judge.

The application was lodged with the European Court of Human Rights on 31 January 2008.

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

Işıl **Karakaş** (Turkey), *President*,
 Guido **Raimondi** (Italy),
 Paulo **Pinto de Albuquerque** (Portugal),
 Dragoljub **Popović** (Serbia),
 András **Sajó** (Hungary),
 Nebojša **Vučinić** (Montenegro),
 Egidijus **Kūris** (Lithuania),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 3

The Court noted that it was beyond doubt that Mr Contrada had suffered from a number of serious and complex medical disorders. It observed that during the proceedings ten medical reports or certificates had been submitted to the competent authorities. All the documents had consistently and unequivocally found that Mr Contrada's state of health was incompatible with the prison regime to which he was subjected. The Court noted that the applicant's request to be placed under house arrest had not been granted until 2008, that is to say, until nine months after his first request.

In the light of the medical certificates that had been available to the authorities, the time that elapsed before the applicant was placed under house arrest and the reasons given for the decisions refusing his requests, the Court found that Mr Contrada's continued detention had been incompatible with the prohibition of inhuman or degrading treatment under Article 3 of the Convention.

Article 6 § 1

The Court reiterated that it was not its task either to assess the lawfulness of the evidence under the domestic law of the States Parties to the Convention, or to rule on an applicant's guilt in the manner of a fourth-instance court. While Article 6 guaranteed the right to a fair trial, it did not lay down any rules on the admissibility of evidence as such, which was primarily a matter for regulation under the national law of the States Parties to the Convention.

The Court observed that full and proper reasons had been given for the domestic decisions, which had not been arbitrary. It rejected this part of the application as being manifestly ill-founded.

Just satisfaction (Article 41)

The Court held that Italy was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 in respect of costs and expenses.

Separate opinion

Judge Karakaş expressed a dissenting opinion which is annexed to the judgement.

The judgment is available only in 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.