

APPLICATION/REQUÊTE N° 12077/86

Elvira DI STEFANO v/ITALY

Elvira DI STEFANO c/ITALIE

DECISION of 9 December 1991 on the admissibility of the application

DÉCISION du 9 décembre 1991 sur la recevabilité de la requête

Article 26 of the Convention *Six month time-limit calculated from the date on which the decision to dismiss an action for damages, open to appeal, became final.*

Article 26 de la Convention *Délai de six mois compté à partir de la date à laquelle une décision de rejet d'une action en dommages-intérêts, pouvant être frappée d'appel, est passée en force de chose jugée.*

Summary of the relevant facts

The applicant, an Italian national born in 1943, resides in Reggio Calabria. She is represented by Mr M Miccoli.

In 1962 some public works were carried out on a piece of land of which the applicant's father claimed to be a joint owner. On 17 July 1974 he brought an action against the administration, seeking to recover possession of the occupied plot and order for damages.

On 24 May 1985 the Catania District Court dismissed the action on the ground that neither the applicant nor her father had any property rights over the plot in question. It held that the action was in any case time-barred. The judgment, filed in the registry on 23 July 1985, became final on 21 October 1986.

(TRANSLATION)

THE LAW (Extract)

1 The applicant complains in the first place of the length of the proceedings in question and relies on Article 6 para 1 of the Convention, under which everyone is entitled to "a hearing within a reasonable time"

The Commission notes that the proceedings concerned compensation for the prejudice resulting from the unlawful occupation of a plot of land by the local government authorities

With regard to the period to be considered, the Commission notes that the summons returnable to the Catania District Court taken out by the applicant's father, which marked the beginning of the proceedings, was dated 17 July 1974. The court gave judgment on 24 May 1985 and the original copy was deposited with the registry on 23 July 1985. Judgment became final on 21 October 1986.

As the above judgment constituted the final decision in this case, the question might arise whether the application, introduced on 24 March 1986, is out of time and therefore inadmissible for failure to observe the six month time limit.

However, because the decision, being appealable, did not become final until 21 October 1986, the Commission accepts that the six month time limit laid down by Article 26 of the Convention did not begin to run until the last-mentioned date.