AS TO THE ADMISSIBILITY OF

Application No. 23568/94
by V. G.
against Italy

The European Commission of Human Rights (First Chamber) sitting in private on 15 May 1996, the following members being present:

Mr. C.L. ROZAKIS, President
Mrs. J. LIDDY
MM. E. BUSUTTIL
A.S. GÖZÜBÜYÜK
A. WEITZEL
M.P. PELLONPÄÄ
B. MARXER
B. CONFORTI
N. BRATZA
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 3 November 1993 by V.G. against Italy and registered on 3 March 1994 under file No. 23568/94 ;

Having regard to:

- the reports provided for in Rule 47 of the Rules of Procedure of the Commission;

- the Commission's decision of 28 June 1995 to communicate the complaint concerning the length of the criminal proceedings and to declare the remainder of the application inadmissible;

- the observations submitted by the respondent Government on 13 October 1995 and the observations in reply submitted by the applicant on 22 December 1995;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is an Italian national, born in 1931 and currently residing in Reggio Calabria.

The facts of the case, as submitted by the parties, may be summarised as follows.

On 11 March 1991, the Public Prosecutor of Palmi ordered the seizure of the applicant's car; at the same time, the Public Prosecutor informed the applicant that committal proceedings had been initiated against him on charges, inter alia, of fraud and belonging to a criminal association. 546 other persons, including the person from whom the applicant had bought the car, were involved in the investigations. The case concerned an illegal trade of new cars by employees and managers of the car company with the connivance of certain bailiffs.

The applicant's car was seized on 13 March 1991; numerous other cars were also seized.

On 12 April 1991 the applicant lodged a first request to release his car from seizure; this request was dismissed by the Public Prosecutor by a decree of the same day for reasons of preservation of evidence.

On 3 May 1991 the Public Prosecutor urged the investigating judge to have the car subject to an expert opinion, pointing out that the car was being kept in an open air parking and was therefore deteriorating.

On 2 March 1992 the Public Prosecutor requested and obtained a prorogation until 15 November 1992 of the time-limit for closing the preliminary investigation.

On 30 July 1992 the applicant lodged a second request to have his car released from seizure. By decree of 1 October 1992, the Public Prosecutor rejected it on the ground that further investigations were necessary.

On 10 November 1992, the Public Prosecutor requested and obtained a six months' extension of the time-limit for closing the preliminary investigation.

On 12 January 1993 the applicant was interrogated by the police.

On 16 July 1993, the Public Prosecutor requested that the investigations against the applicant and 54 coaccused be discontinued.

On 25 October 1993 the applicant sought a third time to have his car released from seizure; by decree of 21 January 1994, the Public Prosecutor dismissed this request on the ground that the car constituted the corpus delicti and could therefore be subject to future confiscation.

By decree of 4 May 1994, the applicant was informed that, following the Public Prosecutor's request to discontinue the proceedings against him and to commit certain coaccused of his for trial, he was now being considered as an injured party, and that the first hearing was scheduled for 19 May 1994.

On 10 May 1994, the applicant sought again to have his car released from seizure.

By a decision of 24 June 1994, the criminal proceedings against the applicant and 54 coaccused were discontinued and the seizure of the applicant's car lifted. The other coaccused were committed for trial.

On 4 July 1994 the applicant's car was released from seizure.

COMPLAINTS

The applicant alleges that the criminal proceedings instituted against him exceeded the "reasonable time" referred to in Article 6 para. 1 of the Convention.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 3 November 1993 and registered on 3 March 1994.

On 28 June 1995 the Commission decided to communicate the complaint related to the length of the criminal proceedings to the respondent Government, pursuant to Rule 48 para. 2 (b) of the Rules of Procedure, and to declare the remainder of the application

inadmissible.

The Government's written observations were submitted on 13 October 1995. The applicant replied on 22 December 1995.

THE LAW

The applicant complains about the length of the criminal proceedings instituted against him. He invokes Article 6 para. 1 (Art. 6-1) of the Convention, according to which:

> "In the determination of any (...) criminal charge against him, everyone is entitled to a (...) hearing within a reasonable time by (...) a tribunal (...)."

The proceedings in question began on 11 March 1991, when the applicant was informed of the opening of preliminary investigations against him (see Eur. Court H.R., Deweer judgment of 27 February 1980, series A no. 35, p. 24, para. 46) and ended on 24 June 1994; therefore their overall length covers three years, three months and thirteen days.

The Commission recalls that:

> "The reasonableness of the length of the proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and that of the competent authorities ..." (Eur. Court H.R., Kemmache judgment of 27 November 1991, Series A no. 218, p. 27, para. 60).

The Government disclaim any responsibility on the part of the judicial authorities by invoking the extraordinary complexity of the case, given the nature of the main charge (belonging to a criminal organisation) and the number of coaccused (546). They point out in this respect that the Public Prosecutor was granted two extensions of the time-limits for closing the investigations. In particular, they explain that the delay between the Public Prosecutor's request that the charges against the applicant be dropped and the Investigation Judge's subsequent decision to dismiss the case is due to the necessity of informing all the injured parties of such request, in order to enable them to lodge a possible opposition thereto.

The Government underline that, the present case concerning a criminal association, the severance of the applicant's case from that of his coaccused would have been incompatible with the good administration of justice and argue that the overall length of the proceedings cannot, in any event, be regarded as unreasonable.

The applicant contends that the duration of the proceedings is in any event excessive. He points out in particular that two years elapsed between the opening of preliminary investigations against him and his first and only interrogation by the police. He recalls that it is for the Italian Government to organise their legal system so as to comply with the requirement of the reasonable length of proceedings.

The Commission first considers, in the light of the observations submitted by the Government, that the preliminary investigations were undoubtedly complex.

With reference to the delay of almost two years between the opening on 11 March 1991 of the preliminary investigations and the applicant's interrogation on 12 January 1993 by the police, the Commission considers that, if it is true that no activity seems to have been carried out in respect of the applicant during this period, it is plausible, as the Government have convincingly explained, that a

certain activity was carried out in respect of the numerous coaccused.

The Commission further notes that it took the Palmi court almost one year from the date when the Public Prosecutor requested that the investigations against the applicant be discontinued (16 July 1993) to do so (24 June 1994). However, the Commission considers, as pointed out by the Government, that such a delay cannot be regarded as unreasonable, given the number of injured parties to be informed of such request in order to enable them to lodge a possible opposition thereto.

The Commission notes that the course of the investigation would probably have been accelerated had the applicant's case been severed from those of his coaccused. However, the Commission considers that nothing suggests that such a severance would have been compatible with the good administration of justice; it points out in this respect that a concern for speed cannot dispense the judges from taking every measure likely to throw light on the truth or falsehood of the charges (see Eur. Court. H.R., Neumeister judgment of 27 June 1968, series A. no. 8, p. 43, para. 21; no. 9627/81, Comm. report 14.3.84, D.R. 37, pp. 15 ss.; no. 7438/76, Comm. report 15.12.80, D.R. 23, pp. 5 ss.).

The Commission therefore considers that, in light of the complexity of the present case, the reasonable time referred to in Article 6 para. 1 (Art. 6-1) of the Convention has not been exceeded in the present case.

It follows that the application is manifestly ill-founded and must be rejected in pursuance of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, by a majority,

DECLARES THE REMAINDER OF THE APPLICATION INADMISSIBLE.

Secretary to the First Chamber — President of the First Chamber

(M.F. BUQUICCHIO) — (C.L. ROZAKIS)