EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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Shortcomings in the official investigation into police violence against demonstrators who were held following the 2001 G8 Summit in Genoa

In today's **Chamber** judgments[1] in the cases of **Blair and Others v. Italy** (applications nos. 1442/14, 21319/14 and 21911/14) and **Azzolina and Others v. Italy** (applications nos. 28923/09 and 67599/10) the European Court of Human Rights held, unanimously, that there had been:

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

The cases concerned incidents following the G8 Summit in Genoa in 2001, when demonstrators were subjected to violence by law-enforcement officers while in detention. The applicants alleged that they had been subjected to torture and complained that the investigation by the domestic courts had been ineffective, in particular because the statute of limitations had been applied to virtually all the acts committed and because a number of those convicted had been granted a remission of their sentence.

The Court held, in particular, that the ill-treatment suffered by the applicants was beyond doubt, having been established in a detailed and thorough manner by the domestic courts. The applicants, who had been in a particularly vulnerable situation owing to their detention, had been subjected to physical, verbal and psychological abuse which in the Court's view amounted to torture. Owing to the lack of an offence of torture in Italian law at the time of the events, virtually all the acts of violence had been statute-barred when the cases came to trial. Because of the application of the statute of limitations and the remissions of sentence granted to several of those convicted, none of the persons found to be responsible had received appropriate punishment. The Court therefore held that the applicants had not had the benefit of an effective official investigation.

Principal facts

The applicants in these five cases are 59 individuals of various nationalities.

The Italian city of Genoa hosted the 28th G8 Summit from 19 to 21 July 2001. An anti-globalisation summit was also staged in the city at the same time and was attended by between 200,000 and 300,000 people. A large number of demonstrations were organised during that event, some of which led to clashes between the law-enforcement agencies and demonstrators. These confrontations caused hundreds of injuries on both sides. Whole neighbourhoods of the city were also severely damaged.

Arrangements were put in place to deal with the individuals arrested during the demonstrations. In particular, two temporary centres, the Forte San Giuliano and Bolzaneto barracks, were used as holding areas for arrestees before their transfer to various prisons.

The applicants, who were arrested and taken to the Bolzaneto barracks between 20 and 22 July, stayed there for one or two days before being transferred. They alleged that they had been subjected to violence there at the hands of the police and the medical staff. In particular, they

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.

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claimed to have sustained bodily injury and insults, been sprayed with irritant gas, had their personal effects destroyed and been subjected to other forms of ill-treatment. They had not been provided with appropriate treatment for their injuries at any stage, as the violence had continued during the medical examinations.

Following these events the Genoa public prosecutor's office commenced criminal proceedings against 145 individuals, including a deputy police commissioner, police officers and medical staff. On 14 July 2008, 15 of the defendants were sentenced to between nine months' and five years' imprisonment and were temporarily barred from holding public office. Ten of them were granted stays of execution of sentence, three were granted complete remission of sentence and two were granted a three-year remission of sentence. The court held that inhuman and degrading treatment had demonstrably been inflicted, but that the difficulties with identifying the perpetrators and the fact that Italian criminal law lacked any criminal offence of torture had complicated the process of convicting the guilty parties. An appeal judgment of 5 March 2010 overturned the aforementioned judgment in part, on the grounds that a number of offences had become statute-barred. However, the Court of Appeal emphasised that the credibility of the witness statements and the seriousness of the violence were beyond doubt and held that the sustained, systematic abuse suffered by the applicants had been intended to break down their psychological and physical resistance and had had serious consequences for the victims, with after-effects persisting long after the end of their detention. On 14 June 2013 the Court of Cassation upheld that judgment, observing that virtually all the offences had become statute-barred.

Complaints, procedure and composition of the Court

Relying mainly on Article 3 of the Convention (prohibition of torture and inhuman or degrading treatment), the applicants complained of being subjected to acts of violence which they equated with torture and inhuman or degrading acts. They also maintained that the subsequent investigation had been inadequate on account of the lack of appropriate sanctions against the persons found to be responsible. In that regard they complained, in particular, of the statute of limitations applying to most of the offences with which those persons had been charged, the remission of sentence granted to some of the convicted persons, and the absence of disciplinary sanctions against them. Furthermore, they alleged that the Italian State had failed to take the requisite action to prevent this kind of ill-treatment, by omitting to provide for an offence of torture in Italian criminal law.

The applications in the case of *Blair and Others v. Italy* were lodged with the European Court of Human Rights on 10 December 2013 and on 6 and 10 March 2014. Those in the case of *Azzolina and Others v. Italy* were lodged on 27 May 2009 and 3 September 2010.

The judgments were given by a Chamber of seven judges, composed as follows:

Blair and Others v. Italy:
Linos-Alexandre **Sicilianos** (Greece), *President*,
Kristina **Pardalos** (San Marino),
Guido **Raimondi** (Italy),
Aleš **Pejchal** (Czech Republic),
Ksenija **Turković** (Croatia),
Armen **Harutyunyan** (Armenia),
Pauliine **Koskelo** (Finland),

Azzolina and Others v. Italy:
Linos-Alexandre **Sicilianos** (Greece), *President*,
Kristina **Pardalos** (San Marino),
Guido **Raimondi** (Italy),
Aleš **Pejchal** (the Czech Republic),
Ksenija **Turković** (Croatia),
Pauline **Koskelo** (Finland),
Tim **Eicke** (United Kingdom),

and also Abel **Campos**, *Section Registrar.*

Decision of the Court

Following a friendly-settlement agreement with the Italian Government the applications were struck out of the list with regard to four applicants in the case of *Blair and Others v. Italy* and seven

applicants in the case of *Azzolina and Others v. Italy*. These eleven applicants each received 45,000 euros (EUR) in respect of pecuniary and non-pecuniary damage and the costs and expenses incurred in the domestic proceedings and before the Court.

Article 3

In the case of *Azzolina and Others v. Italy* the Italian Government raised several preliminary objections. They maintained in particular that, as a result of the judicial proceedings before the domestic courts, the applicants had obtained at least partial recognition of the alleged violations and been granted compensation in the form of damages. As a result, they could no longer claim victim status. Furthermore, as the proceedings were still pending, they had not exhausted domestic criminal remedies.

The Court considered that the applicants, who had lodged their applications more than eight years after the events, could not be criticised for not awaiting the judgment of the Court of Cassation, especially in view of the application of the statute of limitations and the remissions of sentence. It decided to join to the merits the Government's preliminary objection that the applicants no longer had victim status following the proceedings before the domestic courts, and the objection of failure to exhaust domestic civil remedies.

Ill-treatment of the applicants

The Court noted that the ill-treatment of the applicants had been established by the domestic courts in detailed and thorough fashion, and that the witness testimony had been corroborated by the statements of police officers and public officials, the defendants' partial confessions, the medical reports and the court-ordered expert reports. The Court therefore considered that the physical and verbal abuse to which the applicants had been subjected, and the after-effects arising from it, were established. It observed that this treatment had occurred over a significant period of time without the intensity of the violence diminishing. Furthermore, it had taken place in an overall context of excessive and indiscriminate use of force that had been manifestly disproportionate.

Lastly, the Court highlighted the serious breach on the part of members of the police force of their professional duty to protect persons, in a situation where the applicants, having been placed in police custody, had been particularly vulnerable. All of these factors, in the Court's view, had combined to make the applicants' place of detention a place of "lawlessness" in which their most fundamental safeguards had been withheld.

Consequently, since the acts of violence to which the applicants had been subjected were to be considered as acts of torture, the Court found a violation of Article 3.

The ensuing investigation

While recognising the efforts made by the domestic courts in the investigation, the Court noted that the lack of cooperation by the police, coupled with the fact that the applicants had not been allowed to look at the police officers while they were in detention, had made it difficult if not impossible to identify most of the perpetrators, who had therefore gone unpunished. The Court observed that of 45 persons committed for trial, the Court of Cassation had upheld the conviction of only eight police officers or senior officials, and that all the persons convicted had been granted either a remission of sentence or a stay of execution, with the result that, in practice, nobody had spent a single day in prison for the ill-treatment of the applicants.

The Court stressed that the length of the proceedings and the application of the statute of limitations to most of the offences had not been caused, in the present case, by prevarication or negligence on the part of the prosecuting authorities and the domestic courts, but by structural shortcomings in the Italian legal system. The problem stemmed from the fact that no existing

criminal offence was capable of encompassing the issues raised by possible acts of torture against individuals.

In its judgment of 7 April 2015 in the case of *Cestaro v. Italy* the Court had already found the domestic criminal legislation to be both inadequate and lacking in preventive effect. It had ruled that Italy should equip itself with legal instruments capable of imposing the appropriate sanctions on the perpetrators of acts of torture or ill-treatment and of ensuring that they did not benefit from the statute of limitations or obtain a remission of their sentence. In the present case the Court took note of the entry into force on 18 July 2017 of new legislation introducing the offence of torture into domestic law.

With regard to disciplinary measures the Court observed that the police officers concerned had not been suspended from duty during the trial, nor was it clear from the Government's observations whether they had been the subject of disciplinary action. The Court reiterated that where State agents had been charged with offences involving ill-treatment, it was important that they should be suspended from duty while being investigated or tried and should be dismissed if convicted.

In sum, the Court considered that the applicants had not had the benefit of an effective official investigation. It therefore found a violation of Article 3.

Just satisfaction (Article 41)

In the case of *Blair and Others v. Italy* the Court held that Italy was to pay EUR 10,000 each to Ms Menegon and Mr Spingi and EUR 70,000 each to the remaining 22 applicants in respect of non-pecuniary damage, and EUR 40,320 in respect of costs and expenses to 13 of the applicants in application no. 21911/14.

In the case of *Azzolina and Others v. Italy* the Court held that Italy was to pay, by way of non-pecuniary damage, EUR 85,000 to Mr Azzolina and EUR 80,000 each to the 23 remaining applicants.

The judgment is available only in French.

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