



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

CASE OF PERNA v. ITALY

(Application no. 48898/99)

JUDGMENT

STRASBOURG

6 May 2003

In the case of Perna v. Italy,

The European Court of Human Rights, sitting as a Grand Chamber composed of the following judges:

Mr L. WILDHABER, *President*,
Mr C.L. ROZAKIS,
Mr J.-P. COSTA,
Mr G. RESS,
Sir Nicolas BRATZA,
Mr B. CONFORTI,
Mrs E. PALM,
Mr I. CABRAL BARRETO,
Mr V. BUTKEVYCH,
Mr B. ZUPANČIČ,
Mr J. HEDIGAN,
Mrs W. THOMASSEN,
Mr M. PELLONPÄÄ,
Mrs S. BOTOUCHAROVA,
Mr M. UGREKHELIDZE,
Mrs E. STEINER,
Mr S. PAVLOVSKI,

and also of Mr P.J. MAHONEY, *Registrar*,

Having deliberated in private on 25 September 2002 and 5 March 2003,
Delivers the following judgment, which was adopted on the
last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 48898/99) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mr Giancarlo Perna (“the applicant”), on 22 March 1999.

2. The applicant was represented by Mr G.D. Caiazza, of the Rome Bar. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, Head of the Diplomatic Disputes Department, Ministry of Foreign Affairs, assisted by Mr F. Crisafulli, Deputy Co-Agent.

3. The applicant alleged a violation of Article 6 §§ 1 and 3 (d) of the Convention on account of the Italian courts’ refusal to admit the evidence he wished to adduce, and an infringement of his right to freedom of expression, guaranteed by Article 10 of the Convention.

4. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that

would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1. It was composed of the following judges: Mr C.L. Rozakis, President, Mr B. Conforti, Mr G. Bonello, Mrs V. Stráznická, Mr M. Fischbach, Mrs M. Tsatsa-Nikolovska, Mr E. Levits, and also of Mr E. Fribergh, Section Registrar.

5. In a decision of 14 December 2000 the Chamber declared the application admissible.

6. On 25 July 2001 the Chamber delivered a judgment in which it held unanimously:

- “1. ... that there has been no violation of Article 6 §§ 1 and 3 (d) of the Convention;
2. ... that there has been a violation of Article 10 of the Convention on account of the applicant’s conviction for alleging, in the form of a symbolic expression, that the complainant had taken an oath of obedience to the former Italian Communist Party, and that there has been no violation of Article 10 arising from the applicant’s conviction on account of his allegations concerning participation by the complainant in an alleged plan to gain control of the public prosecutors’ offices in a number of cities and the real reasons for using the criminal-turned-informer Buscetta;
3. ... that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;
4. ...
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, 9,000,000 (nine million) Italian lire for costs and expenses, together with any sum that may be chargeable in value-added tax and a contribution to the lawyers’ insurance fund (the ‘CAP’);

...”

It dismissed the remainder of the claim for just satisfaction. The concurring opinion of Mr Conforti joined by Mr Levits was annexed to the judgment.

7. On 19 and 24 October 2001 the Government and the applicant requested that the case be referred to the Grand Chamber, in accordance with Article 43 of the Convention and Rule 73. The panel of the Grand Chamber accepted their requests on 12 December 2001.

8. The composition of the Grand Chamber was determined according to the provisions of Article 27 §§ 2 and 3 of the Convention and Rule 24.

9. The Government filed a memorial. In addition, observations were received from Mr G. Caselli, to whom the President had given leave to intervene as an interested party (Article 36 § 2 of the Convention and Rule 61 § 3).

10. A hearing took place in public in the Human Rights Building, Strasbourg, on 25 September 2002 (Rule 59 § 2 [As in force prior to 1 October 2002]).

There appeared before the Court:

- (a) *for the Government*
Mr F. CRISAFULLI, *Deputy Co-Agent;*
- (b) *for the applicant*
Mr G.D. CAIAZZA, Lawyer, *Counsel;*
- (c) *for the third-party intervener*
Mr G. CASELLI, *Third-party intervener,*
Mr G.C. SMURAGLIA, Lawyer, *Counsel.*

The Court heard addresses by them.

THE FACTS

11. The applicant was born in 1940 and lives in Rome.

12. He is a journalist by profession and on 21 November 1993 he published in the Italian daily newspaper *Il Giornale* an article about Mr G. Caselli, who was at that time the Principal Public Prosecutor in Palermo. The article was entitled “Caselli, the judge with the white quiff” and subtitled “Catholic schooling, communist militancy like his friend Violante – Are the charges against Andreotti the start of a new Sogno case?”.

13. In the article the applicant, after referring to the proceedings brought by Mr Caselli against Mr G. Andreotti, a very well-known Italian statesman accused of aiding and abetting the Mafia (*appoggio esterno alla mafia*) who has in the meantime been acquitted at first instance, expressed himself as follows:

“In the last few days Giulio Andreotti has told an Israeli newspaper that he fears he is to be eliminated.

If I may be permitted to begin with a digression, I wonder why he was talking to a foreign paper rather than the Italian press. He’s not the only one. It’s getting to be an epidemic. During the same period the industrialist Carlo De Benedetti chose an English newspaper in which to say that Italy is his Siberia. Even Bettino Craxi, when he feels like uttering threats or complaints, generally does so via the Spanish papers. This might be a form of gratuitous snobbery. But it might also be a victimisation syndrome of the type ‘We’re foreigners in our own country and are obliged to raise our voices abroad in order to make ourselves heard at home.’

That's what Andreotti is suggesting when he adds that he feels like an exile and the victim of a plot, but he doesn't exactly know what kind of plot. Those who have seen him recently say that he's pale, his pointed ears are drooping and he's bent forward to the point of being hunchbacked. He's worried about his wife Lidia, who's been plunged in a kind of cataleptic trance since that fateful 27 March. That was the day when the official notification that he was under investigation – a document running to some 250 typewritten pages – turned the most well known Italian politician into the number one godfather of the Sicilian Mafia. Now Andreotti is bewildered. He tries to understand but he can't. He thinks there must have been some sort of spur-of-the-moment conspiracy.

But the antibody that's eating away at him has been there for some time. It's been cultured for years in precisely those religious environments that Andreotti likes best. While he was already dominating Rome in the 1950s Giancarlo Caselli, the Principal Public Prosecutor in Palermo, author of the 250 pages which have annihilated him, was learning his lessons at the school of the Salesian brothers in Turin.

Giancarlo was a fine, studious boy. Turin is full of people like that because it's a rainy city and the houses have no balconies to watch the street from, so there's nothing else for a boy to do but get his head down over his books. That's why the place specialises in the mass-production of intellectuals. From Bobbio to Conso, the Minister of Justice. It's a puritan brotherhood.

The more Giancarlo progressed towards self-knowledge the heavier his complex about his father weighed on him. The father was a very worthy man but only the chauffeur of a captain of industry. While driving he breathed in the air of the bourgeoisie and then he blew it out again over his son. The boy decided that when he grew up he would pass over to the other side of the fence. No longer subservient like dad, but keeping the upper hand.

At university, he drew close to the PCI [the Italian Communist Party], the party which exalts the frustrated. When he was admitted to the State legal service he swore a threefold oath of obedience – to God, to the Law and to via Botteghe Oscure [formerly the headquarters of the PCI, now those of the PDS – the Democratic Party of the Left]. And Giancarlo became the judge he has remained for the last thirty years – pious, stern and partisan.

But he cannot really be understood without a mention here of his alter ego Luciano Violante, Caselli's twin brother. Both from Turin; the same age – 52; both raised by the Catholic teaching orders; both communist militants; both judicial officers; and a deep understanding between them: when Violante, the head, calls, Caselli, the arm, responds.

Luciano has always been one step ahead of Giancarlo. In the mid-1970s he indicted for an attempted *coup d'état* Edgardo Sogno, a former member of the Resistance, but also an anti-communist. It was a typical political trial which led nowhere. Instead of facing a judicial inquiry, Violante found that his career began to take off. In 1979 he was elected as a Communist MP. And ever since then he has been the via Botteghe Oscure's shadow Minister of Justice. Today he's the chairman of Parliament's anti-Mafia committee, the great choreographer of the to-ing and fro-ing of the *pentiti* [criminals-turned-informers] and the PDS's strongman.

While Violante was climbing the ladder, Caselli had turned into a handsome figure with the shock of prematurely white hair he's so proud of. If he goes away anywhere, even on a short trip, he always takes his hairdryer with him. During breaks in proceedings he pats his quiff into place on his forehead and pushes his hair over his ears. Afterwards, as you will have noticed on TV, he moves his head the bare minimum, so as not to ruin his handiwork.

Vain – he's vain. When Giancarlo was a member of the National Council of the Judiciary, from 1986 to 1990, his colleagues used to make fun of him, saying 'Under his hair there's nothing there'. That's true up to a point, as a comment on his narcissism and his ideological blinkers. But it's not true as regards his intelligence, which cannot be faulted. So far, as can be seen, there's nothing to suggest that one day Caselli's and Andreotti's paths would cross.

Apart from his spell at the National Council of the Judiciary, Giancarlo continued to live in Turin. He was a judge in the public eye and in the first line of the battle against terrorism. It was he who obtained the confession of Patrizio Peci, whose evidence as a witness for the prosecution devastated the Red Brigades.

In the meantime, the PCI set in motion its strategy for gaining control of the public prosecutors' offices of every city in Italy. That campaign is still going on, as the PDS has picked up the baton. The whole thing was the product of two linked but very very simple ideas Violante had. The first idea was that if the Communists could not manage to gain power through the ballot box, they could do so through the courts. There was no shortage of material. The Christian Democrats and the Socialists were nothing but thieves and it would be easy to catch them out. The second idea was more brilliant than the first: the opening of a judicial investigation was sufficient to shatter people's careers; there was no need to go to the trouble of a trial, it was enough to put someone in the pillory. And to do that it was necessary to control the entire network of public prosecutors' offices.

And that was the start of Tangentopoli. The Craxis, De Lorenzos and others were immediately caught with their hands in the till and destroyed. But Andreotti was needed to complete the picture. More cunning than the rest, or not so greedy, the sly old Christian Democrat nearly always avoided getting caught up in corruption cases.

It was at that precise moment that Giancarlo was getting ready to leave the rain of Turin for the sun of Palermo. A campaign of unsubstantiated allegations saw off the incumbent public prosecutor Giammanco, who crept away with his tail between his legs. And at the start of this year the handsome judge was able to take Giammanco's place and finally place Violante's seal on the Palermo prosecution service.

Before he took up his new post Caselli was summoned to the Quirinale [the President's official residence]. President Scalfaro, knowing the type, was concerned. When he had Caselli in front of him he said: 'Do whatever you think is right, but be objective.'

Once in Palermo his fate and Andreotti's, which had remained separate for years, became intertwined. Less than two months later the senator-for-life was suddenly accused of belonging to the Mafia. The file was an implausible rag-bag containing statements by *pentiti*, old and new documents and information given by the same old Buscetta [a *pentito*] to Violante and the anti-Mafia committee, now used by Caselli as evidence in a kind of game of ping-pong between the two twins. To cut a long story

short, even the most long-lived brontosaurus in the Palazzo [i.e. Palazzo Madama – the Senate-House] was destroyed, thanks to the principle that an accusation is sufficient to destroy anyone.

In April Caselli flew off to the United States, where he met Buscetta. He offered the informer 11,000,000 lire a month to continue to cooperate. Buscetta could still be useful to him during the investigation, even if the outcome was no longer of much importance. The result sought had already been achieved.

What will happen next is already predictable. In six to eight months' time the investigation will be closed. But Andreotti will not be able to resurrect his political career. What a stroke of luck. Caselli, on the other hand, will be portrayed as an objective judge whose duty obliged him to prosecute but who realised he had been in the wrong. He will become a hero. And that, if there is a God, cries out for vengeance.”

14. On 10 March 1994, acting on a complaint by Mr Caselli, the judge responsible for preliminary investigations committed the applicant and the manager of *Il Giornale* for trial in the Monza District Court. The applicant was accused of defamation through the medium of the press (*diffamazione a mezzo stampa*), aggravated by the fact that the offence had been committed to the detriment of a civil servant in the performance of his official duties.

15. At the trial on 10 January 1996 the civil party asked for the report on the evidence given by Buscetta to the New York judicial authorities and a copy of the Italian weekly newspaper *l'Espresso* in which that evidence had been published to be added to the file.

The defence asked for two press articles concerning Mr Caselli's professional relations with the *pentito* Buscetta to be added to the file and for the complainant to be required to give evidence. In an order made on the same day the District Court refused these requests on the grounds that the documents in question were not relevant to the object of the proceedings (defamation) and that there was no point taking evidence from Mr Caselli in view of the tenor of the article written by the applicant.

16. On the same day, applying Article 57, Article 595 §§ 1 and 2 and Article 61 § 10 of the Criminal Code and section 13 of the Press Act (Law no. 47 of 8 February 1948), the District Court sentenced the manager of *Il Giornale* and the applicant to fines of 1,000,000 and 1,500,000 Italian lire (ITL) respectively, payment of damages and costs in the sum of ITL 60,000,000, payment of the civil party's costs and publication of the judgment in *Il Giornale*. In its reasoning the District Court included the following considerations:

“...

The author of this article, taking as his theme the case against Senator Giulio Andreotti, gave a biography of the complainant in terms which emphasised his cultural background and above all his ideological leanings – allegedly close to the PCI (now the PDS) – contending that these leanings had decisively influenced [the complainant's] professional activity to the extent of making him the instrument of a

grand design of that party, namely to take control of the judicial organs, particularly the public prosecutors' offices.

Mr Perna stressed the long-standing friendship between the complainant and the MP Violante, asserting that the latter acted as the head in a strategy where Mr Caselli was the arm. He added to his summary biography phrases with a particularly striking literal meaning such as: 'When he was admitted to the State Legal Service he swore a threefold oath of obedience – to God, to the Law and to via Botteghe Oscure. And Giancarlo became the judge he has remained for the last thirty years – pious, stern and partisan.'

He accused Mr Caselli of having managed 'the Andreotti investigation' in furtherance of a grand political design hatched by Violante on behalf of the PCI/PDS, which was to break up by judicial process the dominant political class at the time, so that the favoured party could take power by non-electoral means.

He suggested that the charges against Mr Andreotti, the last politician of any standing not to have been laid low by the 'clean hands' [*mani pulite*] inquiries in progress, should be seen in the context of that exploitation of the investigation.

...

The defamatory nature of the article ... is absolutely manifest, given that the text categorically excluded the possibility that Mr Caselli might be faithful to the deontological obligations of his duties as an officer in the State legal service and denied that he possessed the qualities of impartiality, independence, objectivity and probity which characterise the exercise of judicial functions, an activity which the complainant was even alleged to have used for political ends, according to the author of the article.

In the present case exercise of the right to report current events cannot be pleaded as an extenuating circumstance, Mr Perna not having adduced the slightest evidence in support of his very serious allegations. Nor can he rely on exercise of the right to comment on them – a right which would certainly be enjoyed by a journalist who, in reporting court proceedings, criticises this or that measure – given that the offending assertions in the article amount to nothing more than an unjustified attack on the complainant, which foully besmirched his honour and reputation. ..."

17. The applicant appealed. Relying on the freedom of the press, and in particular the right to report and comment on current events, he contended, among other arguments, that what he had written about Mr Caselli's political leanings was true and that the court could have verified that by agreeing to take evidence from the complainant himself; that Caselli and Violante were indeed friends; and that it was likewise true that Caselli had used the help of the *pentito* Buscetta in the proceedings against Andreotti, and, as the representative of the State, had paid him sums of money, all *pentiti* being remunerated by the Italian State. Describing himself in addition as an opinion columnist (*opinionista*), he asserted that he had not intended to give a biography of Caselli but rather to express his critical opinions, in a figurative and forceful way. More precisely, he had made critical judgments, which were admittedly more or less well founded and

with which readers might or might not agree, but which were explicitly derived from the factual premise, namely Caselli's political activity. Lastly, he demanded that evidence be taken from the complainant and from certain journalists and figures in Italian politics who, like Mr Caselli, had been Communist Party militants. In particular, he asked for evidence to be taken from Mr S. Vertone and Mr G. Ferrara and for press articles on interviews in which the two men had confirmed the complainant's active political militancy to be added to the file. In particular, in an interview published in the daily newspaper *Corriere della Sera* on 11 December 1994, extracts from which were quoted in the applicant's appeal, Mr Vertone had stated, *inter alia*, that the complainant was a brave man of great integrity but that he was influenced by the cultural and political model of communism, that his relations with the former Communist Party had been very close and that he had later all but joined the party. In an interview given to another daily newspaper, *La Stampa*, which published it on 9 December 1994, Mr Ferrara had asserted that he had taken part in dozens of political meetings with Caselli and Violante among others during the 1970s in the Turin federation of the former Communist Party. He had gone on to say that although Caselli, a man of integrity, had done good work against terrorism as an officer of the State legal service, he was heavily politicised and should therefore avoid speaking like a tribune of the people.

18. In a judgment of 28 October 1997 the Milan Court of Appeal dismissed the applicant's appeal, ruling as follows:

“... the statements noted in the charges ... are undeniably seriously damaging to the reputation of the injured party. They go further than casting doubt – as the charges say – on Mr Caselli's loyalty to the country's institutions, his faithfulness to the principle of legality, his objectivity and his independence; they categorically deny that he possesses those qualities and even attribute to him, among other accusations, instances of conduct which constitute disciplinary and criminal offences.”

The Court of Appeal held that it was evident that the article essentially referred to facts, some of which were not in the least defamatory and were therefore not relevant to the decision to be taken.

“In particular, the following elements are undeniably facts (not judgments), and one of the appeal pleadings (from lawyer D'A.) refers to them as such:

- (i) Giancarlo Caselli's political leanings;
- (ii) the friendship between Mr Caselli and MP Violante;
- (iii) the information that as public prosecutor in Palermo Mr Caselli used the statements of the criminal-turned-informer Buscetta in the investigation concerning Mr Andreotti, and the information that the same Buscetta, like other *pentiti*, is paid by the State.

Those elements are facts and in itself merely stating them is not in the least defamatory; they are therefore not relevant to the decision this Court has to take. That

seems quite obvious as regards the last two pieces of information above, but is also true of the first (Giancarlo Caselli's political leanings), since the State guarantees not only freedom of thought and the freedom to express thoughts but also the freedom of association in political parties.

It is therefore not relevant to try to ascertain what political beliefs Giancarlo Caselli holds and whether or not he expressed them in specific circumstances (and at all events outside the judicial sphere and the performance of his duties) since that information could not in any case be considered defamatory in itself...

There is therefore no basis for the request that the proceedings be reopened, firstly so that Giancarlo Caselli can be heard as a witness, and secondly to obtain the production of the press articles of Saverio Vertone and Giuliano Ferrara, but also so that witness evidence can be taken from them, once again on the subject of [Caselli's] political militancy or at any rate of [his] ... political participation in the PCI/PDS. First of all, that information, as has already been said, is barely touched upon in the article, and in the second place it cannot in any event be regarded as damaging to the complainant's reputation and accordingly does not need to be verified."

19. Other facts imputed to the complainant were, on the contrary, undeniably defamatory. First of all, there was the oath of obedience, which, beyond its symbolic import, bore the precise accusation that Mr Caselli had given a personal and lasting undertaking to "obey", in the course of his duties, the law, his religious beliefs and "the instructions of the leaders" of a political party.

The Court of Appeal continued:

"The remainder of the article, which gives a highly defamatory account of Mr Caselli's alleged obedience to the Communist Party, confirms that the journalist was not expressing judgments or personal opinions but imputing specific conduct to Mr Caselli.

Further on the article asserts

(i) that Mr Caselli is Mr Violante's twin brother, ...

(ii) that the PCI ... set in motion a strategy of seizing control of all the public prosecutors' offices in Italy by applying two of the MP's ideas, the first being to gain power ... by using the judicial machine and the second to resort simply to opening a judicial investigation ... in order to destroy the careers [of political opponents] since there was no need to go to the trouble of a trial, it was enough to put someone in the pillory.

It is in that context that the journalist referred to two actions by Giancarlo Caselli: his request for a transfer to the Palermo public prosecutor's office and subsequent appointment to the post of public prosecutor there and his notification to Mr Andreotti that he faced prosecution for belonging to a Mafia-type organisation.

...

The journalist Perna did not therefore express opinions or judgments but attributed to the complainant Giancarlo Caselli in a highly defamatory manner conduct and acts

about which – and here we can only repeat what the District Court said – he did not adduce a scrap of evidence; he did not even seek to prove his case, as his lawyers argue that he was merely expressing opinions.

... The journalist [having] attributed specific acts to public prosecutor Giancarlo Caselli without verifying his assertions in any way and in a totally gratuitous manner, his conduct cannot be explained by errors or misunderstandings, but only as a deliberate act.

That is confirmed by the literal content of the whole article, in which the person of Giancarlo Caselli is constantly and subtly denigrated, even though a few positive remarks are skilfully mixed in with the attacks. ...

The content of the whole article shows that there was no unintentional fault on the defendant's part but that he was fully aware that he was damaging another's reputation and even that he intended to do so."

20. In a judgment of 9 October 1998, deposited with the registry on 3 December 1998, the Court of Cassation upheld the Court of Appeal's judgment, ruling that it was quite correct both as regards the merits and from the procedural point of view.

"...

Contrary to what has been alleged, the requests for leave to adduce evidence filed by the defence were interpreted in accordance with their exact significance and probative value and were rightly refused because they were totally devoid of relevance to the decision.

The appeal written and signed jointly by the defendant Perna and his lawyer Mr Caiazza contains a request for the proceedings to be reopened, with a view, firstly, to 'taking witness evidence from the civil party', in particular 'about the forms and modalities of his militancy, or at least of his political participation in the activities of the PCI/PDS during the period when he was already a public prosecutor, and about all the other points which offended the complainant'. The absolutely vague and irrelevant nature of the request is manifest in the light of the tenor of the phrases used by Mr Perna (in whose article the allusion to Mr Caselli's militancy is by no means limited, as Mr Caiazza argued in the grounds of appeal, to the assertion that Mr Caselli associated himself with the Communist Party while he was at university, an assertion which would, incidentally, not constitute an insult); the article set out to give a detailed account of the forms taken by that militancy by imputing certain acts to Mr Caselli with the aim of proving that his militancy existed. Consequently, either this point remains vague or the problem is resolved by trying to make the complainant admit the facts noted in the charges, with the result that the burden of proof is shifted away from [Mr Perna and Mr Montanelli]. ...

Moreover, the 'direct witnesses', Giuliano Ferrara and Saverio Vertone, are mentioned in connection with the above point [the forms taken by the complainant's militancy]; what has just been said about the vagueness and irrelevance of that point therefore applies equally to those persons. Furthermore, giving further details about facts of which they had direct knowledge would have had no bearing on the trial since these were assertions which the trial court did not consider offensive and to speak of this as exculpatory evidence is accordingly meaningless.

Lastly, Mr Caselli's militancy within the PCI has nothing to do with the specific facts attributed to him, and therefore with his alleged oath of obedience to via Botteghe Oscure (to which, however, this ground of appeal makes no allusion), with the relations between Caselli and Violante and above all with an alleged link with Buscetta.

Apart from the procedural aspect of the question, it should be stated at the outset that even the argument that the content of the article was not objectively offensive is absolutely devoid of foundation, as the judgment given by the trial court was justified in every respect as regards the offensive nature, for a man even more than for an officer of the State legal service, of imputations of specific facts implying a lack of personality, dignity, independent thought, coherence and moral honesty, and conduct signifying explicitly that there have been instances of dereliction of professional duty.

...

The trial court's reasoning on the extenuating circumstances of the right to report current events and the right to comment on them is also correct, as evidenced by an appropriate statement of the reasons which was free of mistakes in law and errors of logic.

No link can be established, and moreover no link was established by the Court of Appeal, between the personality [of Mr Caselli] and an alleged right to report current events exercised through the offensive imputation of facts which have not been proved to be true and play no informative role.

The essential point in the judgment is its categorical exclusion of the idea that the article expressed a critical judgment, hence the rejection of the plea that the right to freedom of expression constituted an extenuating circumstance. And in fact it is precisely by virtue of this comparative parameter and of its accessory powers of cognition that this court must repeat that the reasons given [by the Court of Appeal] are immune to criticism: the article is quite clearly a bare list of acts and conduct imputed to Mr Caselli in which there cannot be seen, even in veiled form, the slightest contribution to thought which might be regarded as a critical judgment, or even the attempt at irony which is said to be hidden in the elusive 'caustic phrases' referred to in the grounds of appeal. As the Court of Appeal concluded, this case was not about respect for the limits of formal propriety.

It follows from all of the foregoing considerations that, as it is impossible to speak of critical comment, there is no cause to expatiate about exercise of the right to comment, still less about the extenuating circumstance of gross negligence in the exercise of the right to comment or about the hypothetical exercise of that right.

...”

THE LAW

I. PRELIMINARY ISSUE: THE SCOPE OF THE CASE

21. In their request for the case to be referred to the Grand Chamber, and again at the hearing, the Government asserted that that part of the Court's judgment of 25 July 2001 which concerned the complaint under Article 6 §§ 1 and 3 (d) of the Convention would be final and would accordingly not fall within the scope of the present proceedings.

22. The applicant, on the other hand, asked the Court to hold that there had been violations of Articles 6 and 10 of the Convention.

23. The Court does not accept the Government's argument. As it has already had occasion to observe, the wording of Article 43 of the Convention makes it clear that, whilst the existence of "a serious question affecting the interpretation or application of the Convention or the Protocols thereto, or a serious issue of general importance" (paragraph 2) is a prerequisite for acceptance of a party's request, the consequence of acceptance is that the whole "case" is referred to the Grand Chamber to be decided afresh by means of a new judgment (paragraph 3). This being so, the "case" referred to the Grand Chamber necessarily embraces all aspects of the application previously examined by the Chamber in its judgment, the scope of its jurisdiction in the "case" being limited only by the Chamber's decision on admissibility. In sum, there is no basis for a merely partial referral of the case to the Grand Chamber (see *K. and T. v. Finland* [GC], no. 25702/94, §§ 139-41, ECHR 2001-VII, and *Göç v. Turkey* [GC], no. 36590/97, §§ 35-37, ECHR 2002-V).

24. The Court will therefore examine the two complaints under Articles 6 and 10 which were declared admissible by the Chamber and which were dealt with in its judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (d) OF THE CONVENTION

25. The applicant alleged that his right to due process had been infringed on account of the Italian courts' refusal to admit the evidence he wished to adduce, including adversarial examination of the complainant. He asked the Court to find a violation of Article 6 §§ 1 and 3 (d), the relevant parts of which provide:

"1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...

...

3. Everyone charged with a criminal offence has the following minimum rights:

...

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

...”

26. The Government emphasised at the outset that the admissibility of evidence was a matter for the domestic courts and that the applicant’s guilt had been confirmed by “courts at three levels of jurisdiction which examined the evidence adduced at the trial according to adversarial procedure”. The domestic courts had thus taken the view that the evidence the applicant wished to adduce was not relevant to his trial and there was nothing to indicate that the refusal to admit that evidence had breached Article 6. Relying on the Court’s established case-law, the Government observed that a defendant did not have an unlimited right to have witnesses called; he also had to show that the evidence of the witnesses he wished to have examined was necessary to establish the facts, which the applicant had not done in the instant case. None of the witness evidence he wished to adduce was relevant to the defamatory statements made in the offending article.

27. The applicant contested the Government’s assertion that the domestic courts had convicted him on the basis of the evidence examined at his trial. In his submission, they had refused to admit the crucial evidence in any trial for defamation, namely examination of the complainant. The result had been that, as the defendant, he had been denied the most elementary of his rights, namely the right to ask the complainant to say, under oath, whether the facts which formed the basis of the criticisms in the article were true or false. Moreover, he had not been able to adduce any evidence at all, a fact which was symptomatic of the abnormal character of his trial. In particular, it was hard to understand how the courts could describe as irrelevant testimony about the complainant’s political militancy at a time when he was already an officer in the State legal service, since that had been at the heart of the doubts he had expressed about Mr Caselli’s independence. In basing his conviction on the impugned article alone, the relevant domestic courts had, in substance, regarded the trial itself as superfluous.

28. Mr Caselli, the third-party intervener, submitted that the evidence the applicant had sought to adduce was of no relevance to the object of the defamation proceedings.

29. The Court observes in the first place that the admissibility of evidence is primarily a matter for regulation by national law. The Court’s task under the Convention is not to give a ruling as to whether statements of

witnesses were properly admitted as evidence, but rather to ascertain whether the proceedings as a whole, including the way in which evidence was taken, were fair (see, among many other authorities, *Van Mechelen and Others v. the Netherlands*, judgment of 23 April 1997, *Reports of Judgments and Decisions* 1997-III, p. 711, § 50). In particular, “as a general rule, it is for the national courts to assess the evidence before them as well as the relevance of the evidence which defendants seek to adduce ... Article 6 § 3 (d) leaves it to them, again as a general rule, to assess whether it is appropriate to call witnesses” (see *Vidal v. Belgium*, judgment of 22 April 1992, Series A no. 235-B, pp. 32-33, § 33). It is accordingly not sufficient for a defendant to complain that he has not been allowed to question certain witnesses; he must, in addition, support his request by explaining why it is important for the witnesses concerned to be heard and their evidence must be necessary for the establishment of the truth (see *Engel and Others v. the Netherlands*, judgment of 8 June 1976, Series A no. 22, pp. 38-39, § 91; and *Bricmont v. Belgium*, judgment of 7 July 1989, Series A no. 158, p. 31, § 89). That principle also applies where a defendant asks for the complainant in a defamation case to be examined.

30. The Court notes that at first instance the applicant asked for two press articles on Mr Caselli’s professional relations with the criminal-turned-informer Mr Buscetta to be added to the file and for the former to be required to give evidence (see paragraph 15 above). On appeal, he repeated his request for the complainant to be examined and also asked for Mr Vertone and Mr Ferrara to be heard and for two further articles which had appeared in the press in December 1994 to be added to the file. These articles contained reports on interviews in which Mr Vertone and Mr Ferrara had stated that Mr Caselli had “all but joined the [Communist Party]” and was “heavily politicised” (see paragraph 17 above).

31. By those means the applicant sought to establish that Mr Caselli’s political leanings, his friendship with Mr Violante and his professional relations with Mr Buscetta were facts. But the Italian courts which tried the merits of the case held that Mr Caselli’s political convictions and any manifestation of them unconnected with the performance of his duties as State Counsel, the existence of ties of friendship between Mr Violante and Mr Caselli and the use of the statements made by Mr Buscetta, a criminal-turned-informer paid by the State, in the proceedings against Mr Andreotti were facts without any defamatory import. On the other hand, it was defamatory to say that the complainant had “managed the Andreotti investigation in furtherance of a grand political design hatched by Violante” in order to take power by non-electoral means, thus committing an abuse of authority for political ends. The offending article manifestly denied that Mr Caselli possessed “the qualities of impartiality, independence, objectivity and probity which characterise the exercise of judicial functions” by attributing to him conduct “signifying that there [had been] instances of

dereliction of professional duty” which “constituted disciplinary and criminal offences”. As the Court of Cassation noted in its judgment of 9 October 1998, the applicant’s requests for evidence to be admitted “were interpreted in accordance with their exact significance and probative value and were rightly refused because they were totally devoid of relevance to the decision” (see paragraph 20 above). The vague and irrelevant nature of the request for the proceedings to be reopened was, in the Court of Cassation’s view, quite evident in the light of the tenor of the applicant’s assertions: “the article set out to give a detailed account of the forms taken by [Mr Caselli’s] militancy by imputing certain acts to Mr Caselli with the aim of proving that his militancy existed. Consequently, either this point remains vague or the problem is resolved by trying to make the complainant admit the facts noted in the charges, with the result that the burden of proof is shifted away from [Mr Perna and Mr Montanelli]. ...”

The Court agrees with the Italian courts that, even supposing that adding the two press articles to the file and taking evidence from Mr Caselli could have shed light on the latter’s political leanings and his relations with third parties, those measures would not have been capable of establishing that he had failed to observe the principles of impartiality, independence and objectivity inherent in his duties. On that crucial aspect, at no time did the applicant try to prove the reality of the conduct alleged to be contrary to those principles. On the contrary, his defence was that these were critical judgments which there was no need to prove.

32. In the light of the above considerations, the Court considers that the decisions in which the national authorities refused the applicant’s requests are not open to criticism under Article 6, as he had not established that his requests to produce documentary evidence and for evidence to be taken from the complainant and witnesses would have been helpful in proving that the specific conduct imputed to Mr Caselli had actually occurred. From that point of view, it cannot therefore be considered that the defamation proceedings brought by Mr Caselli against the applicant were unfair on account of the way the evidence was taken. The Court observes in passing, and although this is not decisive in the present case, that on 10 January 1996 the Monza District Court also ruled to be irrelevant the report on the evidence given by Mr Buscetta and the account of it given in a press article, documents which Mr Caselli’s counsel had asked to be admitted in evidence in order to make clear what course the interview had taken (see paragraph 15 above).

In conclusion, there has been no violation of Article 6 §§ 1 and 3 (d) of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

33. The applicant complained of an infringement of his right to freedom of expression, both because of the Italian courts' decisions on the merits and because of their procedural decisions, which had prevented him from proving that the offending article was an example of the right to report and comment on current events within the context of the freedom of the press. He relied on Article 10 of the Convention, which provides:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

34. As regards the second limb of that complaint, namely the Italian courts' refusal to admit the evidence the applicant wished to adduce, the Court considers that in substance it raises no issue separate from the one it has already determined in connection with Article 6 §§ 1 and 3 (d). Consequently, the Court will examine only the first limb, that is the applicant's conviction as such, from the standpoint of the substantive guarantees set forth in Article 10.

A. Arguments of the parties

1. The Government

35. Before the Court the Government submitted that the object of the decisions complained of by the applicant was to protect the reputation of others, namely the reputation of the Palermo public prosecutor, Mr Caselli, and to maintain the authority of the judiciary; they therefore pursued legitimate aims for the purposes of the second paragraph of Article 10. The applicant's assertions, far from concerning a matter of public debate, had been a personal affront to Mr Caselli. Referring to the Court's case-law on the question, the Government argued that, in view of the special place of the judiciary in society, it might prove necessary to protect it against unfounded attacks, especially where the duty of discretion prevented the targeted judges from reacting.

In accusing Mr Caselli of breaking the law, or at the very least of dereliction of his professional duties, the applicant had damaged not only his reputation but also public confidence in the State legal service. As the Milan Court of Appeal had observed, the applicant had not expressed opinions but had attributed conduct without checking his facts and without producing any concrete evidence to support his assertions.

36. In their request for the case to be referred to the Grand Chamber, and later at the hearing, the Government concentrated on the reasons which had led the Chamber to hold in its judgment of 25 July 2001 that there had been a violation of Article 10. In their submission, the finding of a violation had no factual basis: far from asserting that Mr Caselli's militancy was a matter of public knowledge, the Italian courts had held that the symbolic phrase about the oath of obedience was not defamatory, and that was why the request for evidence to be taken from the complainant had been refused as irrelevant.

2. The applicant

37. In the applicant's submission, a politically militant officer of the State legal service was inevitably influenced in the performance of his duties by his militancy. While it was possible to disagree with that opinion, it was not right to describe it as a very serious accusation and punish it with a criminal penalty without permitting the defence to adduce any evidence at all.

3. The third-party intervener

38. Mr Caselli submitted that the political militancy to which the Chamber had referred in its judgment of 25 July 2001 (paragraphs 28, 29, 41 and 42) was not stated as a fact in the decisions of the domestic courts. None of them had ever taken such militancy to have been established. In addition, Mr Caselli asserted that he had never hidden his beliefs (which should not be confused with militancy) and that he was a member of Magistratura Democratica, an association of officers of the State legal service represented within the National Council of the Judiciary.

B. The Court's assessment

1. General principles

39. The Court reiterates the following fundamental principles in this area:

(a) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is

applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”. As set forth in Article 10, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see, among other authorities, *Jersild v. Denmark*, judgment of 23 September 1994, Series A no. 298, p. 23, § 31; *Janowski v. Poland* [GC], no. 25716/94, § 30, ECHR 1999-I; *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 43, ECHR 1999-VIII; and *Fuentes Bobo v. Spain*, no. 39293/98, § 43, 29 February 2000).

The press plays an essential role in a democratic society. Although it must not overstep certain bounds, regarding in particular protection of the reputation and rights of others and the need to prevent the disclosure of confidential information, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest, including those relating to justice (see *De Haes and Gijssels v. Belgium*, judgment of 24 February 1997, *Reports* 1997-I, pp. 233-34, § 37). Not only does it have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of “public watchdog” (see *Thorgeir Thorgeirson v. Iceland*, judgment of 25 June 1992, Series A no. 239, p. 27, § 63, and *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, § 62, ECHR 1999-III). Article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed (see *Oberschlick v. Austria (no. 1)*, judgment of 23 May 1991, Series A no. 204, p. 25, § 57). Journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see *Prager and Oberschlick v. Austria*, judgment of 26 April 1995, Series A no. 313, p. 19, § 38, and *Thoma v. Luxembourg*, no. 38432/97, §§ 45 and 46, ECHR 2001-III).

(b) The adjective “necessary”, within the meaning of Article 10 § 2, implies the existence of a “pressing social need”. The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with a European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court. The Court is therefore empowered to give the final ruling on whether a “restriction” is reconcilable with freedom of expression as protected by Article 10 (see *Janowski*, cited above, § 30).

(c) In exercising its supervisory jurisdiction, the Court must look at the impugned interference in the light of the case as a whole, including the content of the remarks held against the applicant and the context in which he made them. In particular, it must determine whether the interference in issue was “proportionate to the legitimate aims pursued” and whether the

reasons adduced by the national authorities to justify it are “relevant and sufficient” (see *Barfod v. Denmark*, judgment of 22 February 1989, Series A no. 149, p. 12, § 28, and *Janowski*, cited above, § 30). In doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they based themselves on an acceptable assessment of the relevant facts (see *Jersild*, cited above, p. 24, § 31; *Fuentes Bobo*, cited above, § 44; and *De Diego Nafria v. Spain*, no. 46833/99, § 34, 14 March 2002).

(d) The nature and severity of the penalty imposed are also factors to be taken into account when assessing the proportionality of the interference (see, for example, *Ceylan v. Turkey* [GC], no. 23556/94, § 37, ECHR 1999-IV, and *Tammer v. Estonia*, no. 41205/98, § 69, ECHR 2001-I).

2. Application of the above principles to the instant case

40. As the decisions of the domestic courts show, the applicant was committed for trial and later convicted for casting doubt on Mr Caselli’s “faithfulness to the principle of legality, his objectivity and his independence” (see paragraph 18 above) by accusing him, among other allegations, of having carried on his profession improperly and acted illegally, particularly in connection with the prosecution of Mr Andreotti.

The courts took account of the following aggravating circumstances:

- (i) the fact of having imputed to the injured party the acts mentioned (and even criminal acts as regards the criminal-turned-informer Buscetta);
- (ii) the fact of having committed the act (defamation) to the detriment of a civil servant in the performance of his official duties.

The conviction at first instance was subsequently upheld by the Court of Appeal and the Court of Cassation (see paragraphs 18-20 above).

41. The conviction incontestably amounted to interference with the applicant’s exercise of his right to freedom of expression. The question arises whether such interference can be justified under the second paragraph of Article 10. It therefore falls to be determined whether the interference was “prescribed by law”, had a “legitimate aim” for the purposes of that paragraph and was “necessary in a democratic society” (see *Lingens v. Austria*, judgment of 8 July 1986, Series A no. 103, pp. 24-25, §§ 34-37).

42. The Court notes that the competent courts based their decisions on Article 595 §§ 1 and 2 and Article 61 § 10 of the Criminal Code, and section 13 of the Press Act (Law no. 47 of 8 February 1948) (see paragraph 16 above) and that, as the Government submitted, the reasons for those decisions showed that they pursued a legitimate aim, namely protection of the reputation and rights of others, in this instance those of Mr Caselli, who was head of the Palermo public prosecutor’s office at the time.

43. However, the Court must verify whether the interference was justified and necessary in a democratic society, and in particular whether it

was proportionate and whether the reasons given by the national authorities in justification for it were relevant and sufficient. It is thus essential to determine whether the national authorities made proper use of their power of appreciation in convicting the applicant of defamation.

44. The Monza District Court held that the defamatory nature of the article was “absolutely manifest”, because the text excluded the possibility that Mr Caselli might be faithful to the deontological obligations of his duties as an officer in the State legal service and in addition denied that he possessed the qualities of impartiality, independence and objectivity which characterise the exercise of judicial functions. In short, the applicant’s assertions amounted to nothing more than “an unjustified attack on the complainant, which foully besmirched his honour and reputation” (see paragraph 16 above).

45. The Court of Appeal held that some of the statements Mr Perna made about the complainant were not in the least defamatory. Others, on the contrary, which the applicant wrongly presented as judgments or opinions, had imputed conduct to Mr Caselli in a highly defamatory and gratuitous manner without any attempt to check the facts beforehand. The fact that the journalist had acted deliberately was fully confirmed by the content of the whole article, in which Mr Caselli had been “constantly and subtly denigrated”. Its author had therefore indeed intended to damage another’s reputation (see paragraphs 18 and 19 above).

46. Lastly, the Court of Cassation upheld the Court of Appeal’s judgment, ruling that it was not open to criticism. It held that the factual statements made about Mr Caselli played no informative role and had not been proved to be true. The offensive nature of the article, for a man, even more than for an officer of the State legal service, was not in doubt, as the applicant had made imputations of specific facts implying a lack of personality, dignity, independent thought, coherence and moral honesty, and conduct signifying explicitly that there had been instances of dereliction of professional duty (see paragraph 20 above).

47. The Court observes that a finding of a violation of Article 10 cannot be excluded *a priori* where a defendant has been convicted by the domestic courts on the basis of a separate examination of the various assertions made in an article like the one in issue. In the present case, however, merely to scrutinise each of the statements taken into consideration by the national authorities in reaching their decision that the offence of defamation had been committed would be to lose sight of the article’s overall content and its very essence. Mr Perna did not confine his remarks to the assertion that Mr Caselli harboured or had manifested political beliefs and that this justified doubts about his impartiality in the performance of his duties. It is quite apparent from the whole article – as the national authorities rightly noted – that the applicant sought to convey to the public the following clear and wholly unambiguous message: that Mr Caselli had knowingly

committed an abuse of authority, notably in precise circumstances connected with the indictment of Mr Andreotti, in furtherance of the alleged PCI strategy of gaining control of public prosecutors' offices in Italy. In that context, even phrases like the one relating to the "oath of obedience" take on a meaning which is anything but symbolic. The Court further observes that it has just found, in paragraph 31 of this judgment, that at no time did the applicant try to prove that the specific conduct imputed to Mr Caselli had actually occurred and that in his defence he argued, on the contrary, that he had expressed critical judgments which there was no need to prove.

48. Having regard to the foregoing, the Court considers that the applicant's conviction on account of his defamatory article and the sentence imposed on him (a fine of 1,500,000 Italian lire (ITL), payment of damages and costs in the sum of ITL 60,000,000, reimbursement of the civil party's costs and publication of the judgment) were not disproportionate to the legitimate aim pursued, and that the reasons given by the Italian courts in justification of those measures were relevant and sufficient. The interference with the applicant's exercise of his right to freedom of expression could therefore reasonably be regarded as necessary in a democratic society to protect the reputation of others within the meaning of Article 10 § 2.

There has accordingly been no violation of Article 10 of the Convention.

FOR THESE REASONS, THE COURT

1. *Holds* unanimously that there has been no violation of Article 6 §§ 1 and 3 (d) of the Convention;
2. *Holds* by sixteen votes to one that there has been no violation of Article 10 of the Convention.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 6 May 2003.

Luzius WILDHABER
President

Paul MAHONEY
Registrar

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the dissenting opinion of Mr Conforti is annexed to this judgment.

L.W.
P.J.M.

DISSENTING OPINION OF JUDGE CONFORTI

(Translation)

Annexed to the Chamber's judgment is a separate opinion in which I criticised the approach followed by the majority, particularly the fact that they considered the complaint about the procedural aspect separately from the complaint under Article 10. I would have preferred an overall approach focused on Article 10. The Grand Chamber has now endorsed the Chamber's approach and, like the Chamber, has held that the proceedings were not conducted in a manner incompatible with the principles laid down in Article 6. Moreover, it did not agree with the Chamber on the Article 10 issue, since it found that Article 10 had not been breached. For my part, I can only repeat the opinion I expressed in connection with the Chamber's judgment.

In my view, the issues raised in cases of this type are still Article 10 issues even where the procedure followed is concerned; and what can normally be tolerated from the point of view of due process according to the fair-trial rules laid down in Article 6 may not be acceptable when it is a matter of verifying whether an interference with freedom of expression is "necessary in a democratic society". In the present case the courts refused all requests for permission to adduce evidence and, what to my mind is exceptionally serious, refused to take evidence from the complainant, who could have and should have been examined by the applicant's counsel. It is not right to speculate beforehand about what the result of such an examination might be.

In the trial of a journalist for defamation of a judicial officer in the public prosecution service, the conduct of the domestic courts, whether intentional or not, gives the clear impression of intimidation, which cannot be tolerated in the light of the Court's case-law on restrictions of the freedom of the press. Indeed, the Italian courts acted very speedily in determining the charges against the applicant in less than four years, at three levels of jurisdiction. However, that circumstance too, although praiseworthy from the point of view of the reasonable length of judicial proceedings, cannot fail to reinforce – in a country condemned many times for the length of its proceedings – the impression I mentioned above.

That is why I consider that there has been a violation of Article 10.

In expressing my opinion, I do not need to emphasise the importance I attach to the freedom of the press. In that connection it is striking how many actions are brought by judicial officers against journalists in Italy and how large are the sums awarded by the Italian courts in damages, as the Press Association complained in 1999 (see *Ordine dei giornalisti, Tutela della reputazione e libertà di stampa, Contenuti e riflessioni sul Convegno di Roma Citazioni e miliardi*, Rome, 1999).

As freedom of the press is my only concern, I regret that I have had to express my opinion in a case which involves a judicial officer – the third-party intervener – whom every Italian citizen must admire for risking his life in the fight against the Mafia.