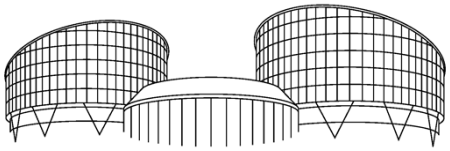

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

# CASE OF CASSONE v. ITALY

*(Application no. 7781/09)*

JUDGMENT

STRASBOURG

10 July 2025

*This judgment is final but it may be subject to editorial revision.*

**In the case of Cassone v. Italy,**

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Frédéric Krenc*, President*,
Raffaele Sabato,
Alain Chablais*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 7781/09) 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") on 26 January 2006 by an Italian national, Mr Rocco Cassone ("the applicant"), who was born in 1957, lives in Reggio Calabria and was represented by Mr F. Calabrese, a lawyer practising in Reggio Calabria;

the decision to give notice of the complaint under Article 6 § 1 of the Convention concerning the lack of a public hearing to the Italian Government ("the Government"), represented by their Agent, Mr L. D'Ascia, and to declare the remainder of the application inadmissible;

the observations submitted by the Government;

Having deliberated in private on 19 June 2025,

Delivers the following judgment, which was adopted on that date:

## SUBJECT MATTER OF THE CASE

1. In two separate sets of criminal proceedings, the applicant was convicted of participation in a mafia-type organisation and extortion. The convictions became final in 2002 and 2003, respectively.

2. On 8 February 2006 the public prosecutor attached to the Reggio Calabria District Court requested the application of preventive measures in respect of the applicant, namely that he be placed under special police supervision (*sorveglianza speciale di pubblica sicurezza*) and that a compulsory residence order (*obbligo di soggiorno*) to stay in the municipality of his residence be imposed on him. The public prosecutor further requested the confiscation, as a preventive measure, of certain assets directly or indirectly at the applicant's disposal.

3. On 26 June 2006 the District Court granted the request observing that, in the light of his convictions, the applicant posed a current danger to society, and disposed of assets disproportionate to his lawful income, for which he had failed to prove the lawful origin. The District Court sat *in camera*, pursuant to Section 4 of Law no. 1423 of 1956.

4. The applicant lodged an appeal. On 13 July 2007, after four hearings sitting *in camera*, the Reggio Calabria Court of Appeal upheld the lower court's decision.

5. By judgment no. 41213 of 2 October 2008, filed with the registry on 5 November 2008, the Court of Cassation dismissed the applicant's appeal on points of law. The decision applying the preventive measures in respect of the applicant and his property became final.

6. The applicant complained of a violation of Article 6 § 1 of the Convention for the lack of a public hearing in the proceedings before the District Court and the Court of Appeal.

# THE COURT'S ASSESSMENT

## I. ADMISSIBILITY

7. The Government raised an objection of non-exhaustion of domestic remedies, arguing that the applicant never raised the issue of the lack of a public hearing in his domestic appeals. They argued that even though at the material time the relevant provision stipulated that the hearings be held in private (see paragraph 3 above), it did not prevent the applicant from requesting a public hearing.

8. The general principles concerning exhaustion of domestic remedies are set out in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-43, 27 November 2023).

9. The Court notes that Section 4 of Law no. 1423 of 1956, which at the material time provided that the proceedings for the application of preventive measures be held *in camera* (see *Bocellari and Rizza v. Italy*, no. 399/02, §§ 25-26, 13 November 2007), had the force of law and the judges called upon to decide the applicant's case were required to apply it. Moreover, the Government did not produce any example of cases in which a public hearing was scheduled following a request from the individual concerned (see, *mutatis mutandis*, *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, §§ 75-76, 17 September 2009).

10. Furthermore, the Court has already addressed similar objections raised by the Government in previous cases and dismissed them (see *Bongiorno and Others v. Italy*, no. 4514/07, §§ 21-22, 5 January 2010). It sees no reason to depart from that conclusion.

11. It follows that the Government's preliminary objection on the ground of non-exhaustion cannot be accepted.

12. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

## II. MERITS

13. The general principles concerning the right to a public hearing within proceedings for the application of preventive measures have been

summarised in *Bocellari and Rizza* (cited above) and *De Tommaso v. Italy* ([GC], no. 43395/09, 23 February 2017).

14. The Government did not dispute that the hearings before the District Court and the Court of Appeal were not public. They further acknowledged that by judgment no. 93 of 2010 the Constitutional Court declared section 4 of Law no. 1423/1956 unconstitutional in so far as it did not afford the person concerned the opportunity to request a public hearing during the proceedings for the application of preventive measures, whether at first instance or on appeal (see *De Tommaso*, cited above, § 165), and that Section 7 § 1 of Legislative Decree no. 159 of 2011 subsequently introduced the possibility of submitting such a request. However, as this development occurred after the proceedings in respect of the applicant, these developments are immaterial in the present case.

15. The Court refers to its relevant case-law regarding the lack of a public hearing in proceedings concerning preventive measures in respect of property (see *Bocellari and Rizza*, cited above, §§ 34-41; *Perre and Others v. Italy*, no. 1905/05, §§ 23-26, 8 July 2008; *Bongiorno and Others*, cited above, §§ 27-30; *Leone v. Italy*, no. 30506/07, §§ 26-29, 2 February 2010; and *Capitani and Campanella v. Italy*, no. 24920/07, §§ 26-29, 17 May 2011) and in respect of the individual (see *De Tommaso*, cited above, §§ 163-68).

16. In the aforementioned cases, the Court found that the type of assessment required of the domestic courts in those proceedings necessitated a public hearing (see *Capitani and Campanella*, § 28, and *De Tommaso*, § 167, both cited above).

17. The Court sees no reason to reach a different conclusion in the present case. There has accordingly been a violation of Article 6 § 1 of the Convention.

## APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 10 July 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Liv Tigerstedt<br>Deputy Registrar | Frédéric Krenc<br>President |