



## Luberti v. Italy

App. No. 9019/80, 6 Eur. H.R. Rep. 440 (1984).

**Country:** Italy

**Region:** Europe

**Year:** 1984

**Court:** European Court of Human Rights European Court of Human Rights

**Health Topics:** Health care and health services, Mental health

**Human Rights:** Right to due process/fair trial, Right to health, Right to liberty and security of person

### Facts

Applicant, Luberti, an Italian national, shot and killed his mistress and was sentenced to twenty years imprisonment. The applicant pleaded insanity and several experts concluded that the applicant was suffering from mental illness. These findings were accepted by the Court of Appeal and he was acquitted on grounds of mental incapacity and the applicant was sentenced to two years in a psychiatric hospital. He made several applications to judicial authorities for his early release on the grounds that his continued confinement was not justified by his state of health but these were rejected. After a number of applications and appeals eventually the applicant was released.

The applicant alleged violations of his rights under the European Convention on Human Rights (ECHR). In particular Article 5 Â§ 1 (right to liberty and security of person) alleging that his confinement in a psychiatric hospital was unlawful as he was no longer suffering from any mental disorder and Article 5 Â§ 4 as the Italian courts had not given a decision speedily as the lawfulness of his confinement.

### Decision and Reasoning

The Court found no violation of Article 5 Â§ 1 of the ECHR as the applicant's detention had not continued beyond the period justified by his mental disorder. It however found a violation of Article 5 Â§ 4 and reasoned that, even though the applicant also contributed to the delays in question, the fact remained that the proceedings were characterized by excessive delays. As a result of those delays, the Italian judicial authorities, notwithstanding the diligence shown by the Naples Supervision Division, did not give a decision "speedily" on "the lawfulness of [the] detention" in question.

### Decision Excerpts

"31. The Court has to determine this issue notwithstanding the absence of violation of Article 5 Â§ 1 (art. 5-1); on this point, it refers to its settled case-law (see, as the most recent authority, the above-mentioned Van Droogenbroeck judgment, Series A no. 50, p. 23, Â§ 43).

Certain distinctions that are relevant in the present case are to be found in previous judgments given by the Court on Article 5 Â§ 4 (art. 5-4). Where the decision to deprive an individual of his liberty is one taken by an administrative body, that individual is entitled to have the lawfulness of the decision reviewed by a court, but the same does not apply when the decision is made by a court at the close of judicial proceedings, the review required by Article 5 Â§ 4 (art. 5-4) being in that event incorporated in the decision (see, as the most recent authority, the above-mentioned Van Droogenbroeck judgment, *ibid.*, p. 23, Â§ 44-45).

The Court has also held, in connection with the confinement of persons of unsound mind, that provision should always be made for a subsequent review to be available at reasonable intervals, in as much as the reasons initially warranting confinement may cease to exist (see, as the most recent authority, the above-mentioned X v. the United Kingdom judgment, Series A no. 46, pp. 22-23, Â§ 52)." Page 13.