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Death in Genoa: The G8 Summit Shooting and the Right to Life

1. INTRODUCTION

The policing of the G8 Summit meeting in Genoa, on the 20–22 July 2001, is still the focus of intense and critical discussion in Italy and abroad. Of all the incidents involving the use of force by public officials during those few days, it is the shooting of Carlo Giuliani in Piazza Alimonda by a carabiniere conscript, Mario Placanica, that has become the most controversial and even iconic. In his richiesta di archiviazione (report requesting the termination of criminal proceedings) of December 2002, the investigating Prosecutor, Silvio Franz concluded that Placanica should not be prosecuted, because his actions were justified as legittima difesa (legitimate self-defence). At the beginning of May 2003, the giudice per le indagini preliminari (or gip, the judge in charge of the preliminary investigation), Elena Daloiso accepted this finding and ordered that the proceedings be terminated, so ending the criminal investigation into Giuliani’s death. In her view, Placanica’s actions were also and primarily justified as a ‘legitimate use of arms’.

The Italian criminal justice system allows criminal proceedings to be terminated in this way, without a trial, if it is at least probable that the alleged wrongdoing was...
justified or if a conviction is otherwise unlikely on the evidence. However, as this case is about police accountability for the use of lethal force, two serious problems arise. One is the threat to public confidence in the accountability process, which can apparently declare a State killing lawful without a public hearing.6 Indeed, controversy about the evidential bases of the conclusion here continues to blaze, fuelled by the intensity of media and public interest and the quantity and ready availability of photographic evidence.7 The other problem is that terminating the proceedings by focusing on the individual officer’s actions in relation to a specific criminal offence (murder) excludes the incident’s wider planning and command implications, which are as, if not more important than the individual State agent’s blameworthiness. With the termination of the criminal process, the victim’s family is left with the option of a human rights-based action before the European Court of Human Rights (ECHR). A key element of this would be Italy’s obligations under Article 2 of the European Convention on Human Rights (ECHR), on the Right to Life,8 which, in contrast with the criminal proceedings, concerns both the assessment of individual actions and their broader setting.

This article explores the factual and procedural context of the Placanica case, before explaining the relevant principles of Italian criminal law on which the decisions to terminate proceedings have been based.9 In so doing it provides a ‘snapshot’ of Italian criminal procedure and self-defence law in action. The article then considers the compatibility of those decisions with the individual liability elements of Article 2 ECHR, together with that article’s wider impact on State liability. Given the difficulty in finding a breach of Article 2 when State agents kill during law enforcement operations, despite the high standards that the European Court applies when interpreting the Right to Life, it is the right’s broader significance that may ultimately be most important here. This covers the State’s responsibilities for the investigation of deaths caused by its agents and for the planning of operations during which lethal force is used. As Giuliani’s death has become an international concern, in a period in which police shootings are an increasing problem, in Italy and elsewhere in Europe,10 it is hoped that this article will assist understanding of its legal dimensions, in order to encourage critical and informed debate.

7. L. Voce, ‘I molti misteri di Piazza Alimonda’. Carta (12 December 2002) pp. 31–35. The controversy is compounded by the zeal with which demonstrators are being prosecuted.
8. Taking a case to Strasbourg may be particularly significant for the Giuliani family, given that the domestic finding of justification excludes liability for damages. This article does not consider other possible ECHR claims, such as under Article 6, Right to a Fair Trial or Article 13, Right to an Effective Remedy for example.