



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

FIRST SECTION

CASE OF ALUNNI AND OTHERS v. ITALY

(Application no. 16505/22 and 9 others – see appended list)

JUDGMENT

STRASBOURG

11 January 2024

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

In the case of Alunni v. Italy,

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

Péter Paczolay, *President*,

Gilberto Felici,

Raffaele Sabato, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the applications 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 the applicants listed in the appended table, (“the applicants”), on the various dates indicated therein;

the decision to give notice of the applications to the Italian Government (“the Government”) represented by their Agent, Mr L. D’Ascia;

the parties’ observations;

Having deliberated in private on 5 December 2023,

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

SUBJECT MATTER OF THE CASE

1. The applicants are lawyers who declared that they had advanced legal fees in respect of their clients (*avvocati antistatari*) and who were awarded legal fees through assignment orders (*ordinanze di assegnazione*) aimed at implementing decisions or judgments issued under Law no. 89 of 2001 (“the Pinto Act”). They complained of the non-enforcement or delayed enforcement of such assignment orders.

2. The list of applicants and the relevant details of the applications are set out in the appended table.

RELEVANT LEGAL FRAMEWORK

3. The domestic law concerning the Pinto Act is set out in the *Cocchiarella v. Italy* judgment ([GC], no. 64886/01, §§ 23-31, ECHR 2006-V). The Pinto Act was subsequently amended in 2012 (Law-Decree no. 83 of 2012, converted into Law no. 134 of 7 August 2012) and in 2015 (section 1, paragraph 777 of Law no. 208 of 28 December 2015).

4. The relevant provisions of the Pinto Act, following the above amendments, are as follows:

Section 5 *sexies* (terms of payment)

“1. In order to receive the payment of the sums awarded pursuant to the present Act, the creditor shall issue a declaration [...] to the debtor authority, certifying that no sums have been paid in execution of the relevant domestic decision, indicating whether enforcement proceedings have been instituted for the judgment debt, the sum that the

authorities are still required to pay and the preferred method of payment pursuant to paragraph 9 of the present section. The creditor shall also submit the necessary documents required under the decrees indicated in paragraph 3.

...

3. A model declaration pursuant to paragraph 1 and the documents to be submitted to the debtor authority shall be determined by decrees of the Ministry of Economy and Finance, to be issued before 30 October 2016. The authorities shall publish the forms and documents referred to in the latter sentence on their institutional websites. ...

4. In the event of an absent, incomplete or irregular submission of the declaration or documentation referred to in the preceding paragraphs, the payment order may not be issued.

5. The authority shall make the payment within six months from the date on which the obligations provided for in the preceding paragraphs are fully discharged. The time-limit referred to in the preceding sentence shall not begin to run in the event of absent, incomplete or irregular submission of the declaration or documentation referred to in the preceding paragraphs.

...

9. The payment of the sums owed under the present Act is made crediting the sums to the creditors' current or payment accounts. Payments in cash and through bills of exchange are only possible for sums not exceeding 1,000 euros."

5. By Decree no. 120738 of 28 October 2016, the Ministry of Economy and Finance adopted the model declaration required under paragraph 3 of section 5 *sexies* of the Pinto Act.

6. As to the request of payment of legal fees awarded in the "Pinto" proceedings, the model declaration requires the creditor to indicate: (i) whether enforcement proceedings relating to "Pinto" decisions have been instituted; (ii) the reference of any assignment order issued in the context of those enforcement proceedings; (iii) whether the sums awarded by the assignment order have been paid by the debtor authority; and (iv) any outstanding amount which still needs to be paid.

THE COURT'S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLES 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL NO. 1

8. The applicants complained of the non-enforcement or delayed enforcement of assignment orders given in their favour. They relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

A. Admissibility

9. In relation to application no. 16505/22, the Government argued that the applicant's complaints had to be rejected as unfounded, as the relevant domestic judgment (issued by the Rome District Court on 21 January 2020) had been enforced in September 2022, when the applicant had received the full payment of the amounts awarded.

10. In relation to applications nos. 22217/22, 22219/22, 22221/22 and 24887/22, the Government contended that the applicants had failed to submit a declaration containing the necessary information for the authorities to proceed with the payment of the judgment debt, as well as supporting documents, as required under Article 5 *sexies* of the Pinto Act (see paragraphs 4-6 above).

11. Finally, the Government submitted that payments are made in chronological order according to the date of receipt of the declaration. Considering that the declaration under Article 5 *sexies* of the Pinto Act and the supporting documents relating to applications nos. 22202/22, 22214/22, 22222/22, 24454/22 and 24891/22 had been submitted in the period 2018-2020, the delay in enforcement of the relevant domestic judgments was justified because of the existence of an administrative backlog affecting the enforcement of domestic judgments where declarations had been received by the debtor authority after 30 April 2018.

12. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a "hearing" for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, Reports of Judgments and Decisions 1997 II).

13. The Court further notes that the assignment orders in the present applications ordered specific action to be taken. The Court therefore considers they constitute "possessions" within the meaning of Article 1 of Protocol No. 1.

14. As concerns application no. 16505/22, the Court notes that, as submitted by the applicant, he sent the declaration and necessary documents to the authorities on 7 February 2020 as required. However, the assignment order was only executed on 29 September 2022, two years and seven months later (see the appended table). According to the Court's established case law such delay is excessive (see, among many others, *Kosheleva and Others v. Russia*, no. 9046/07, § 19, 17 January 2012, and *Gerasimov and Others v. Russia*, nos. 29920/05 and 10 others, § 169, 1 July 2014). The fact that the sums owed to the applicant were finally paid to him cannot cure the national authorities' long-standing failure to comply with a judgment (see, *mutatis mutandis*, *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 198, ECHR 2006-V, and *Delle Cave and Corrado v. Italy*, no. 14626/03, § 23, 5 June 2007).

15. In relation to applications nos. 22217/22, 22219/22, 22221/22 and 24887/22, the Court reiterates that a successful litigant may be required to undertake certain procedural steps in order to recover the judgment debt, be it during a voluntary execution of a judgment by the State or during its enforcement by compulsory means (see *Shvedov v. Russia*, no. 69306/01, §§ 29-37, 20 October 2005). Accordingly, it is not unreasonable that the authorities request the applicant to produce additional documents, such as bank details, to allow or speed up the execution of a judgment (see, *mutatis mutandis*, *Kosmidis and Kosmidou v. Greece*, no. 32141/04, § 24, 8 November 2007; *Burdov v. Russia (no. 2)*, no. 33509/04, § 69, ECHR 2009; and *Arbačiauskienė v. Lithuania*, no. 2971/08, § 86, 1 March 2016). The creditor's uncooperative behaviour may be an obstacle to timely enforcement of a judgment, thus alleviating the authorities' responsibility for delays (see *Belayev v. Russia (dec.)*, 36020/02, 22 March 2011).

16. The Court notes that the requirement for the creditor to submit a declaration indicating specific information is set out in Article 5 *sexies* of the Pinto Act (see paragraph 4 above). The Court takes note of the Government's statement that this option is meant to facilitate and accelerate the payment of judicial awards by the State.

17. The Court agrees with the Government that the obligation to send the declaration and supporting documents under Article 5 *sexies* of the Pinto Act constitutes a reasonable procedural step which is required of the creditor in order to obtain sums awarded by "Pinto" decisions. The failure of the creditor to comply with this obligation constitutes an obstacle to the enforcement of decisions in his favour, for which the authorities cannot be held responsible (see *Gadzhikhanov and Saukov*, cited above, § 29).

18. The Court also observes that the model declaration adopted by Decree of the Ministry of Economy and Finance no. 120738 of 28 October 2016 expressly requires, in respect of awards of legal fees in "Pinto" proceedings, that the creditor provides specific information (see paragraph 6 above).

19. The Court further notes that, in their observations, the applicants did not contest the requirement to send such a declaration in order to receive the payment of legal fees awarded in execution proceedings relating to unenforced "Pinto" decisions.

20. In this connection, the Court observes that the second applicant in application no. 22221/22 (Ms Di Molfetta) submitted that she had sent the declaration required under Article 5 *sexies* of the Pinto Act to the debtor authority twice. However, the Court notes that she failed to submit pertinent documents in support of that claim.

21. As concerns the other applicant in application no. 22221/22 (Mr Alunni), as well as the applicants in application nos. 22217/22, 22219/22, and 24887/22, they submitted evidence to the Court that they had filed the relevant declaration for the request of payment of legal fees awarded in execution proceedings under Article 5 *sexies* of the Pinto Act. The Court

therefore concludes that these applicants complied with the requirement of cooperation and cannot therefore be blamed for the lack of execution of the assignment orders.

22. Still, the Court will take into consideration the date of the applicants' submission of the declaration as the starting date of the non-enforcement period.

23. As for the Government's argument, raised in respect of applications nos. 22202/22, 22214/22, 22222/22, 24454/22 and 24891/22, the Court has held that the complexity of the domestic enforcement procedure or of the State budgetary system cannot relieve the State of its obligation under the Convention to guarantee to everyone the right to have a binding and enforceable judicial decision enforced within a reasonable time. It is for the Contracting States to organise their legal systems in such a way that the competent authorities can meet their obligation in this regard (see, *mutatis mutandis*, *Comingersoll S.A. v. Portugal* [GC], no. 35382/97, § 24, ECHR 2000-IV, and *Frydlender v. France* [GC], no. 30979/96, § 45, ECHR 2000-VII).

24. In conclusion, the Court finds that the complaints raised by the second applicant (Ms Di Molfetta) in application no. 22221/22 are manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention whereas the complaints raised by the remaining applicants in all applications are not inadmissible on any grounds. They must therefore be declared admissible.

B. Merits

25. In the leading cases of *Ventorino v. Italy* (no. 357/07, 17 May 2011), *De Trana v. Italy* (no. 64215/01, 16 October 2007), *Nicola Silvestri v. Italy* (no. 16861/02, 9 June 2009), *Antonetto v. Italy* (no. 15918/89, 20 July 2000) and *De Luca v. Italy* (no. 43870/04, 24 September 2013), the Court already found a violation in respect of the non-enforcement or delayed enforcement of domestic judgments.

26. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the merits of the complaints raised in the applications (in no. 22221/22 limited to the complaints raised by the first applicant, Mr Alunni). Having regard to its case-law on the subject, the Court considers that in the instant cases the authorities did not deploy all necessary efforts to enforce fully and in due time the assignment orders in the applicants' favour.

27. These complaints therefore disclose a breach of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1 to the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

29. Regard being had to the documents in its possession and to its case-law (see, in particular, *Ventorino*; *De Trana*; *Nicola Silvestri*; *Antonetto*; and *De Luca*, all cited above), the Court considers it reasonable to award the sums indicated in the appended table.

30. The Court further notes that the respondent State has an outstanding obligation to enforce the judgments which remain enforceable.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints raised by the second applicant in application no. 22221/22 (Ms Di Molfetta) inadmissible and the remainder of the applications admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
5. *Holds* that the respondent State shall ensure, by appropriate means, within three months, the enforcement of the pending domestic judgments referred to in the appended table;
6. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

ALUNNI AND OTHERS v. ITALY JUDGMENT

Done in English, and notified in writing on 11 January 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Deputy Registrar

Péter Paczolay
President

ALUNNI AND OTHERS v. ITALY JUDGMENT

APPENDIX

No.	Application no. Date of introduction	Applicant's name Year of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic court order	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses (in euros) ²
1.	16505/22 16/03/2022	Marco ALUNNI 1962	Rome District Court, R.G. no. 143/2019, 21/01/2020	07/02/2020	29/09/2022 2 years, 7 months and 23 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)	For the applications joined in the present judgment	250 to be paid jointly to the applicants for all of the applications joined in the present judgment
2.	22202/22 22/04/2022	Marco ALUNNI 1962 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 150/2019, 03/05/2019	20/05/2019	pending More than 4 years, 4 months and 7 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)	Mr Alunni: 1,500 Mr Abbate: 1,500 Ms Di Molfetta: 1,250	
3.	22214/22 22/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 142/2019, 21/01/2020	10/02/2020	pending More than 3 years, 7 months and 17 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		
4.	22217/22 22/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 144/2019, 17/12/2019	25/02/2020	pending More than 3 years, 7 months and 2 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		

¹ Plus any tax that may be chargeable.

² Plus any tax that may be chargeable to the applicants.

ALUNNI AND OTHERS v. ITALY JUDGMENT

No.	Application no. Date of introduction	Applicant's name Year of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic court order	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses (in euros) ²
5.	22219/22 22/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 145/2019, 17/12/2019	25/02/2020	pending More than 3 years, 7 months and 2 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		
6.	22221/22 22/04/2022	Marco ALUNNI 1962 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 149/2019, 03/05/2019	20/05/2019	pending More than 4 years, 4 months and 7 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		
7.	22222/22 22/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 141/2019, 17/12/2019	17/12/2019	pending More than 3 years, 9 months and 10 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		
8.	24454/22 29/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G.no. 147/2019, 03/05/2019	20/05/2019	pending More than 4 years, 4 months and 7 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		
9.	24887/22 29/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 146/2019, 03/05/2019	04/09/2020	pending More than 3 years and 23 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		

ALUNNI AND OTHERS v. ITALY JUDGMENT

No.	Application no. Date of introduction	Applicant's name Year of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic court order	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses (in euros) ²
10.	24891/22 29/04/2022	Marco ALUNNI 1962 Ferdinando Emilio ABBATE 1961 Sara DI MOLFETTA 1978	Rome District Court, R.G. no. 148/2019, 03/05/2019	20/05/2019	pending More than 4 years, 4 months and 7 days	Ministry of Economy and Finance Payment of legal fees (<i>avvocato antistatario</i>)		