



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

FIRST SECTION

CASE OF ANNUNZIATA AND OTHERS v. ITALY

(Applications nos. 19989/19 and 6 others – see appended list)

JUDGMENT

STRASBOURG

12 January 2023

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

In the case of Annunziata and Others v. Italy,

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

Krzysztof Wojtyczek, *President*,

Ivana Jelić,

Erik Wennerström, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 8 December 2022,

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

PROCEDURE

1. The case originated in applications against Italy lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The Italian Government (“the Government”) were given notice of the applications.

THE FACTS

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

4. The applicants complained of the excessive length of civil proceedings.

THE RELEVANT DOMESTIC LAW

5. The relevant provisions of Law no. 89 of 24 March 2001, known as the “Pinto Act” (as amended by Law no. 208 of 28 December 2015) are as follows:

Section 2 *bis*

“1. As a general rule, the court shall award a sum of money amounting to a minimum of EUR 400 and a maximum of EUR 800 as just satisfaction for each year or fraction of a year of more than six months exceeding the reasonable time requirement. The sum awarded may be increased up to 20 % for the years following the third and up to 40 % for the years following the seventh. ...”

Section 5 *ter*

“1. An appeal (*opposizione*) shall be lodged against the decision on the claim for just satisfaction within a time-limit of 30 days from the communication or service of the decision.

2. Such appeal shall be lodged with the court to which the judge who issued the decision belongs ...

...

The court shall deliver a decision within four months after the application is lodged. An appeal shall lie to the Court of Cassation. The decision shall be enforceable immediately.”

THE LAW

I. JOINDER OF THE APPLICATIONS

6. 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 ARTICLE 6 § 1 OF THE CONVENTION

7. The applicants complained that the length of the civil proceedings in question had been incompatible with the “reasonable time” requirement. They relied on Article 6 § 1 of the Convention, which, insofar as relevant, reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

A. Admissibility

8. In respect of applications nos. 33736/19 and 60145/19, the Government submitted that the applicants had failed to exhaust all available remedies as they had omitted to request an increase of the compensation awarded by the “Pinto” courts by explicitly referring to section 2 *bis* of the Pinto Act, as amended by Law no. 208/2015.

9. The Court observes that in their appeals to the Court of Appeal and to the Court of Cassation the applicants contested the amount of compensation awarded and requested an increase, *inter alia*, under section 2 *bis* of the Pinto Act. Accordingly, the objection of non-exhaustion raised in relation to applications nos. 33736/19 and 60145/19 must be dismissed.

10. In relation to all applications, the Government submitted that the applicants had lost their victim status given the explicit acknowledgement of the violation in the “Pinto” proceedings and the financial compensation awarded.

11. The Court observes that the applicants’ victim status depends on whether the redress afforded to them at the domestic level was adequate and sufficient having regard to Article 41 of the Convention.

12. In the present case, while the “Pinto” courts expressly acknowledged that a violation had occurred, the redress obtained by the applicants at the domestic level was insufficient in the light of the principles established under the Court’s case-law (see, *a contrario*, *Garino v. Italy* (dec.), nos. 16605/03,

16641/03 and 16644/03, 18 May 2006, and, *mutatis mutandis*, *Scordino v. Italy* (no. 1) [GC], no. 36813/97, §§ 178-215, ECHR 2006-V, and *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-V).

13. The applicants can accordingly still claim to be victims of a breach of the “reasonable time” requirement and the Government’s objection in this respect should be dismissed.

14. The Court further finds that the applicants’ complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

15. In relation to application no. 60145/19, the Government submitted that the applicant’s conduct had substantially contributed to prolonging the main proceedings by causing the institution of incidental proceedings. This entailed the stay of the main proceedings for around seven years. The applicant contested the Government’s submissions.

16. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

17. In the leading case of *Cocchiarella*, cited above, the Court already found a violation of Article 6 of the Convention in respect of the excessive length of civil proceedings.

18. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level.

19. In particular, in relation to application no. 60145/19, the Court considers that, in light of the overall duration of the bankruptcy proceedings (which lasted more than twenty-two years), the applicant’s conduct cannot justify their length. It follows that the Government’s argument in this respect should be dismissed.

20. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

21. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. 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.”

23. Regard being had to the documents in its possession and to its case-law (see, in particular, *Cocchiarella*, cited above), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a breach of Article 6 § 1 of the Convention concerning the excessive length of civil proceedings;
4. *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.

Done in English, and notified in writing on 12 January 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Krzysztof Wojtyczek
President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention
(excessive length of civil proceedings)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Domestic court / file number Domestic award (in euros)	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
1.	19989/19 03/04/2019	Vittorio ANNUNZIATA 1950	Bergamo Federico Naples	16/09/1999	18/01/2011	11 years, 4 months and 3 days 2 levels of jurisdiction	Rome Court of Appeal RG 55042/11 3,000	2,600	250
2.	26377/19 03/05/2019 (3 applicants)	Chiara BICCHIERRI 1956 Rosanna FULCO 1978 Rocco Giuseppe FULCO 1983	Salerno Gianpaolo Policoro	13/02/2008	04/09/2014	6 years, 6 months and 23 days 1 level of jurisdiction	Court of Cassation RG 3288/2017 2,000	1,700	250
3.	33736/19 19/06/2019	Valerio BAGNATO 1952	Tortolani Enrico Eboli	25/06/2004	24/09/2015	11 years and 3 months 1 level of jurisdiction	Salerno Court of Appeal RG 1056/16 3,200	2,600	250

¹ Plus any tax that may be chargeable to the applicants.

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

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4.	39156/19 17/07/2019	Vincenzo Malfettone 1956	Bergamo Federico Naples	16/09/1999	11/01/2011	11 years, 3 months and 27 days 2 levels of jurisdiction	Rome Court of Appeal RG 55043/2011 3,000	2,600	250
5.	39163/19 17/07/2019	Pasquale TeDESCO 1953	Bergamo Federico Naples	16/09/1999	11/01/2011	11 years, 3 months and 27 days 2 levels of jurisdiction	Rome Court of Appeal RG 55045/2011 3,000	2,600	250
6.	40009/19 17/07/2019	Luigi Russo 1955	Bergamo Federico Naples	16/09/1999	11/01/2011	11 years, 3 months and 27 days 2 levels of jurisdiction	Rome Court of Appeal RG 55044/11 3,000	2,600	250
7.	60145/19 07/11/2019	Carlo Lari 1951	Benedetti Stefano Macerata	13/02/1993	30/11/2015	22 years, 9 months and 18 days 3 levels of jurisdiction	Florence Court of Appeal RG 518/16 6,400	1,540	3,250