



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

FIRST SECTION

CASE OF SAMPERI AND CHIAPUSIO v. ITALY

(Applications nos. 53419/19 and 12111/20 – see appended list)

JUDGMENT

STRASBOURG

12 January 2023

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

In the case of Samperi and Chiapusio 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 in which they took part as heirs.

RELEVANT LEGAL FRAMEWORK

5. Section 2 *bis* (Amount of compensation) of Law no. 89 of 24 March 2001, known as the “Pinto Act” as amended by Law no. 208 of 28 December 2015 reads as follows:

“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 year and up to 40 % for the years following the seventh year.”

6. Article 391 *bis* of the Civil Procedure Code provides that if a judgment or order delivered by the Court of Cassation are vitiated by a factual or calculation error the interested party may request its correction or revocation. The application for revision may be made within 60 days following notification or six months after the publication of the order.

THE LAW

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 ARTICLE 6 § 1 OF THE CONVENTION

8. 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 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 ...”

9. The Government raised a twofold objection of admissibility.

10. Firstly, the Government submitted that the applicants failed to exhaust the domestic remedies available. In particular, in respect of application no. 53419/19, they argued that the applicants had failed to request the compensation percentage increases under section 2 *bis* of the so called “Pinto Law”. As to application no. 12111/20, the Government submitted that the applicant failed to lodge an appeal for revocation pursuant to Art. 391 *bis* of the Code of Civil Procedure.

11. Secondly, the Government claimed that the applicants in both cases can no longer claim to be a “victim”, within the meaning of Article 34 of the Convention, of the alleged violation of Article 6 § 1 of the Convention because the amount granted as compensation at the national level was sufficient and in compliance with the relevant domestic provisions.

12. As regards to the Government’s submissions on the exhaustion of domestic remedies, the Court observes the following. In respect of application no. 53419/19, the Court notes that the applicants raised the issue on the adequacy of the amount awarded according to the “Pinto Law” when they appealed against the Catania Court of Appeal decision. Concerning the Government’s submission on the appeal for revocation, the Court further observes that the applicant already complained to three levels of jurisdiction about the excessive length of the proceedings. The Court considers that it would be excessive and disproportionate to resort to a further judicial remedy to quantify again the amount awarded to the applicant in order to fix the alleged mistake made by the same Court of Cassation within the Pinto proceedings. Therefore, the Court considers that a further appeal is not required to comply with the criteria laid out in Article 35 § 4 of the Convention. Consequently, the Court dismisses the Government’s objections of non-exhaustion.

13. As to the objection concerning the “victim” status, within the meaning of Article 34 of the Convention, the Court considers that the just satisfaction

awarded to the applicants at the domestic level cannot be considered sufficient in the light of the Court's case-law (see *Scordino v. Italy* (no. 1) [GC], no. 36813/97, §§ 205-06 and 214-15, ECHR 2006-V, and *Garino v Italy* (dec.), no. 16605/03, 16641/03 and 16644/03, 18 May 2006). The applicants can accordingly still claim to be a "victim" of a breach of the "reasonable time" requirement and the Government's objection should therefore be dismissed (see *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-83, ECHR 2006-V).

14. The Court further 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).

15. In the leading case of *Cocchiarella*, cited above, the Court already found a violation of Article 6 § 1 of the Convention on account of the excessive length of civil proceedings.

16. 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 in the present case. 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.

17. These applications are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. 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."

19. 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 these applications disclose 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

SAMPERI AND CHIAPUSIO v. ITALY JUDGMENT

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	Start of proceeding s	End of proceeding s	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.	53419/19 20/09/2019 (4 applicants)	Giuseppe SAMPERI 1967 Venerando SAMPERI 1960 Enrico SAMPERI 1969 Santo SAMPERI 1959	Zappala Filippo Giarre	29/07/1993	03/06/2015	21 year(s) and 10 month(s) and 6 day(s) 3 level(s) of jurisdiction	Catania Court of Appeal R.G. 201/2016 2,800	1,080	2 250
2.	12111/20 25/02/2020	Giuseppina CHIAPUSIO 1948	Guglielmino Elio Ivrea	26/05/1994	08/01/2014	19 year(s) and 7 month(s) and 14 day(s) 1 level(s) of jurisdiction	Court of Cassation R.G. 3656/2016 3,500	7,300	250

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

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