FIRST SECTION

DECISION

Application no. 46141/12
Michele IZZO against Italy
and 12 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 30 May 2017 as a Chamber composed of:

 Linos-Alexandre Sicilianos, *President,* Kristina Pardalos, Guido Raimondi, Krzysztof Wojtyczek, Ksenija Turković, Pauliine Koskelo, Jovan Ilievski, *judges,*and Abel Campos, *Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having deliberated, decides as follows:

THE FACTS

A.  The circumstances of the cases

1.  The applicants are lawyers by profession and acted as counsel for a number of individuals who instituted proceedings before domestic courts under Law no. 89 of 24 March 2001 (the “Pinto Act”). When lodging their clients’ “Pinto” applications, they declared that they had advanced all the requisite court costs on behalf of the plaintiffs, and had not received payment of their fees. They therefore asked the respective courts to award the legal costs ‒ including their fees ‒ directly to them pursuant to Section 93 of the Code of Civil Procedure (see paragraph 6 below, under “Relevant domestic law”).

2.  In judgments published between 17 May 2008 and 4 May 2014 the domestic courts concerned found in the plaintiffs’ favour, and awarded the applicants sums varying between 150 and 2,180 euros (EUR) as direct awards of the legal costs.

3.  The sums were paid following delays ranging from a minimum of one year and four months to a maximum of one year and eleven months after the “Pinto” judgments had become final.

4.  The applicants’ details, including the reference numbers of the judgments in their favour, together with the date of enforcement, are indicated in the table attached as an appendix to this decision.

B.  Relevant domestic law

1.  Code of Civil Procedure

5.  Under Section 91 of the Code of Civil Procedure, the unsuccessful party in proceedings bears all the legal costs, including the lawyer’s fees and costs and expenses incurred by the other party or parties.

6.  Under Section 93 of the Code of Civil Procedure, a lawyer may declare having advanced the costs and expenses of the proceedings on behalf of his client and not having received payment of his fees. If his client is successful and is thus entitled to legal costs under Section 91, the lawyer can request that the domestic court award such costs directly to him (*distrazione delle spese*). Section 93 thus grants special protection to the lawyer, who enters into a direct relationship with the opposing party and thereby obtains an autonomous right to payment of the legal costs. He can subsequently autonomously bring an action against the unsuccessful party in order to recover his fees, costs and expenses. The lawyer’s right to claim his fees from his client, however, continues to exist.

2.  Law no. 89 of 24 March 2001 (the “Pinto Act”)

7.  The domestic law and practice relating to law no. 89 of 24 March 2001 is set out in the judgment in *Cocchiarella v. Italy* ([GC], no. 64886/01, ECHR 2006‑V). The so-called “Pinto Act” introduced into the Italian legal system a compensatory remedy in respect of unreasonably lengthy legal proceedings.

C.  The Committee of Ministers’ decision of 24 September 2015

8.  The Committee of Ministers’ decision (CM/Del/Dec(2015)1236/10), adopted on 24 September 2015 at the 1236th meeting of the Ministers’ Deputies, reads, in so far as relevant, as follows:

“The Deputies

...

*As regards the delay in the payment of the “Pinto” compensation*

2.  noted with interest the measures adopted by the Italian authorities, which include allocating substantial extra funds to the Ministry of Justice for the payment of compensation under the “Pinto” Law in 2015-2017, and providing additional human resources; noted with satisfaction that these measures are such as to stop the influx of new repetitive applications before the European Court concerning delays in the payment of such compensation”.

COMPLAINTS

9.  The applicants complain that the authorities’ prolonged failure to comply with the binding and enforceable “Pinto” judgments violated their right to a court under Article 6 of the Convention and their right to the peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 which, in so far as relevant, read as follows:

Article 6 § 1

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

Article 1 of Protocol No. 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. ...”

10.  The applicants referred to the Court’s judgmentin *Gaglione and Others v. Italy* (nos. 45867/07 and others, 21 December 2010), and argued that the sum awarded them by the domestic courts should have been paid promptly.

THE LAW

A.  Joinder of the applications

11.  The Court considers that, in accordance with Rule 42 § 1 of the Rules of Court, the applications should be joined, given their similar factual and legal background.

B.  General principles

12.   The Court reaffirms that the right to a court protected by Article 6 of the Convention would be illusory if a Contracting State’s domestic legal system allowed a final, binding judicial decision to remain inoperative. Execution of a judgment given by any court must therefore be regarded as an integral part of the “trial” for the purposes of Article 6 (see *Hornsby v. Greece*, 19 March 1997, § 40, Reports of Judgments and Decisions 1997‑II).

13.  A delay in the execution of a judgment may be justified in particular circumstances. But the delay may not be such as to impair the essence of the right protected under Article 6 § 1 (see *Burdov v. Russia*, no. 59498/00, ECHR 2002‑III). The Court reiterates that the reasonableness of any delay in enforcing a binding judgment must be assessed in the light of the circumstances of the case and that it will depend on different factors, such as the complexity of the enforcement proceedings, the applicant’s behaviour and that of the competent authorities, the amount and nature of the court award (see *Burdov v. Russia (no. 2)*, no. 33509/04, § 66, ECHR 2009, and *Raylyan v. Russia*, no. 22000/03, §§ 31-34, 15 February 2007) and the applicant’s personal situation, including factors such as his age, state of health, and nature of any possible disability (see *Shmalko v. Ukraine*, no. 60750/00, § 44, *in fine*, 20 July 2004).

14.  As to the execution of “Pinto” decisions, specifically, the Court points out that it has on numerous occasions adjudicated applications – lodged by individuals who acted as plaintiffs at the domestic level – concerning the delayed compliance with such decisions (see, among others, *Cocchiarella v. Italy* [GC], no. 64886/01, ECHR 2006‑V, and *Gaglione and Others*, cited above). In these judgments, the Court has found that, in the light of the particular nature of the “Pinto” remedy, decisions adopted within the framework of proceedings instituted under the Pinto Act should in principle be complied with within a particularly short time, specifically within a period not exceeding six months from the date on which the decision awarding compensation became enforceable (see *Cocchiarella v. Italy*, cited above, § 89, and *Gaglione and Others*, cited above, § 34).

C.  Application to the present case

15.  The Court observes, at the outset, that the “Pinto” decisions at issue constituted for the applicants an “enforcement title determining civil rights” (see, *mutatis mutandis*, Buj v. Croatia, no. 24661/02, § 19, 1 June 2006, and Estima Jorge v. Portugal, 21 April 1998, § 35, Reports of Judgments and Decisions 1998‑II; see also, *mutatis mutandis,* *Scollo v. Italy*, 28 September 1995, § 44, Series A no. 315‑C) and that Article 6 is therefore applicable in the present cases.

16.  The Court further notes that the present applications form part of the vast body of litigation originating from the implementation of the compensatory remedy set out in the Pinto Act, and more particularly from delays in enforcing decisions adopted within the framework of “Pinto” proceedings.

17.  The Court’s task, in the present cases, is to assess the reasonableness of the time taken to comply with the “Pinto” courts’ judgments. In this connection, the Court reiterates that it has found on numerous occasions that “Pinto” decisions should in principle be complied with within a period not exceeding six months from the date on which they became final and binding (see paragraph 14 above).

18.  However, the Court observes that, as opposed to the *Cocchiarella* (cited above) and *Gaglione and Others* (cited above) cases, the present applications were lodged not by the plaintiffs who instituted the “Pinto” proceedings but, rather, by the lawyers who represented the plaintiffs in those proceedings. Consequently, the cases at issue concern the effect of delayed compliance on the rights of such representatives.

19.  The Court reiterates that, in prescribing a particularly short time-limit for compliance with a “Pinto” judgment, special weight was given to the nature of such a decision and, more broadly, to the nature of the “Pinto” remedy itself. In this connection, in its judgments in *Cocchiarella* (cited above, § 89) and *Gaglione and Others* (cited above, § 34), the Court affirmed:

“... in respect of a compensatory remedy designed to redress the consequences of excessively lengthy proceedings, [the time taken to make such payment] should not generally exceed six months from the date on which the decision awarding compensation becomes enforceable.”

20.  The aforementioned short time-limit thus stems from the specific circumstances of the case, namely the compensatory nature of the “Pinto” remedy and of a “Pinto” decision. The Court notes, however, that such a compensatory nature is relevant only insofar as the plaintiff in these proceedings is concerned, as it is the plaintiff who brings the claim under the Pinto Act and who is awarded compensation if successful. The Court notes, instead, that such a compensatory feature will not be relevant in respect of a lawyer representing a plaintiff before the “Pinto” jurisdictions and requesting the direct award of legal costs. A “Pinto” decision awarding a certain sum directly to him has no compensatory value and merely represents a credit instrument evidencing a debt owed by the State.

21.  Thus the Court finds that the nature of the cases *Cocchiarella* (cited above) and *Gaglione and Others* (cited above), which justified the imposition of such a time-limit for executing a “Pinto” decision, is not comparable to the nature of the cases under scrutiny. That being so, the Court considers that adherence to a particularly short time-limit for the execution of the “Pinto” decisions in the present cases is not warranted.

22.  Turning to the consideration of the facts in the applicants’ cases, the Court notes that the judgments of the “Pinto” courts were complied with following delays ranging from a minimum of one year and four months to a maximum of one year and eleven months. In its case-law on delayed compliance with final and binding domestic decisions against the State, the Court has found that similar delays may or may not entail a breach of Article 6 of the Convention depending on the circumstances of the case (see, among many such examples, *Burdov v. Russia (no. 2)*, cited above, where periods of two years and one month and one year and three months were found to be in breach of Article 6 of the Convention; see *Pavlyulynets v. Ukraine*, no. 70767/01, 6 September 2005, *Denisov v. Ukraine* (dec.), no. 18512/02, 01 February 2005, and *Krapyvnytskiy v. Ukraine* (dec.), no. 60858/00, 17 September 2002, where periods of one year and six months, one year and eight months, and two years and seven months, respectively, were found to be in accordance with the requirements of Article 6 of the Convention).

23.  As to what was at stake for the applicants in the present cases, the Court takes the view that regard must be had to the particular nature of “Pinto” litigation. The Court notes that similar litigation has evolved, over time, into a highly repetitive activity on the part of lawyers, who can institute proceedings, for a multitude of cases, relying on standardised applications and with limited investment in terms of resources, research, and time.

24.  In light of the foregoing, the Court finds that in the instance cases the time taken to comply with the judgments of the “Pinto” courts cannot be considered unreasonable.

25.  For the same reasons, the Court likewise finds the time taken to comply with the judgments to be in accordance with the requirements of Article 1 of Protocol no. 1.

26.  It follows that the applications are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

*Decides* to join the applications;

*Declares* the applications inadmissible.

Done in English and notified in writing on 22 June 2017.

 Abel Campos Linos-Alexandre Sicilianos
 Registrar President

APPENDIX

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Application no. | Lodged on | ApplicantDate of birthPlace of residence | “Pinto” judgment  | Sum awarded by the “Pinto” court  | Date of publication of the “Pinto” decision | Date of payment | Time taken to comply with the judgment |
|  | 46141/12 | 21/05/2012 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 57447/07 | 2180 EUR | 17/05/2010 | 26/03/2012 | 1 year, 10 months, 9 days |
|  | 72275/12 | 03/10/2012 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 54792/07 | 600 EUR | 22/10/2010 | 07/06/2012 | 1 year, 7 months, 16 days |
|  | 72284/12 | 03/10/2012 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 54796/07 | 500 EUR | 22/10/2010 | 07/06/2012 | 1 year, 7 months, 16 days |
|  | 13439/13 | 11/12/2012 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 573/08 and 574/08  | 1650 EUR | 14/02/2011 | 12/10/2012 | 1 year, 7 months, 28 days |
|  | 39146/13 | 21/05/2013 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 4408/08  | 1300 EUR | 21/04/2011 | 28/01/2013 | 1 year, 9 months, 7 days |
|  | 39149/13 | 21/05/2013 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 4410/08  | 1300 EUR | 21/04/2011 | 28/01/2013 | 1 year, 9 months, 7 days |
|  | 39152/13 | 21/05/2013 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 4409/08  | 1300 EUR | 21/04/2011 | 28/01/2013 | 1 year, 9 months, 7 days |
|  | 39153/13 | 21/05/2013 | **Michele IZZO**16/06/1947Benevento | Rome Court of Appeal, no. 58424/09  | 900 EUR | 14/02/2011 | 17/01/2013 | 1 year, 11 months, 3 days |
|  | 67725/14 | 08/07/2014 | **Matteo MENDUNI**05/02/1980Foggia | Lecce Court of Appeal, no. 1324/10 | 1280 EUR | 5/06/2012 | 15/04/2014 | 1 year, 10 months, 10 days |
| Lecce Court of Appeal, no. 171/10 | 1280 EUR | 5/07/2012 | 04/03/2014 | 1 year, 7 months, 27 days |
|  | 19723/15 | 02/04/2015 | **Matteo MENDUNI**05/02/1980Foggia | Lecce Court of Appeal, no. 947/11  | 730 EUR | 21/06/2013 | 29/12/2014 | 1 year, 6 months, 8 days |
|  | 54798/15 | 22/10/2015 | **Matteo MENDUNI**05/02/1980Foggia | Lecce Court of Appeal, no. 119/12 | 730 EUR | 21/05/2014 | 29/09/2015 | 1 year, 4 months, 8 days |
|  | 20868/16 | 06/04/2016 | **Orsola D’ADDAMIO**16/04/1981Sulmona | Aquila Court of Appeal, no. 298/13 | 1100 EUR | 26/03/2014 | 07/10/2015 | 1 year, 6 months, 11 days |
|  | 60547/16 | 05/10/2016 | **Orsola D’ADDAMIO**16/04/1981Sulmona | Perugia Court of Appeal, no. 725/14 | 150 EUR | 09/05/2014 | 15/04/2016 | 1 year, 11 months, 6 days |