



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

FIRST SECTION

DECISION

Application no. 38083/07
Angelo COLLETTA and Enzo ZOLESI
against Italy

The European Court of Human Rights (First Section), sitting on 3 September 2026 as a Committee composed of:

Erik Wennerström, *President*,

Raffaele Sabato,

Alain Chablais, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 38083/07) 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”) on 20 August 2007 by two Italian nationals, Mr Angelo Colletta and Mr Enzo Zolesi (“the applicants”), who were born in 1948 and 1943 respectively and live in Ameglia, and were represented by Mr R. Sturlese, a lawyer practising in La Spezia;

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

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the allegedly excessive length of compulsory administrative liquidation procedure (*liquidazione coatta amministrativa*) in which the applicants were creditors.

2. By a judgment of 27 August 1988, the Turin District Court declared the fiduciary company (*società fiduciaria*) T., in which the applicants were investors, insolvent. By a decree of 8 September 1988, the Ministry of Industry, Trade and Crafts placed the company in compulsory administrative liquidation and appointed a liquidator (“the commissioner”).

3. In 1989, on an unspecified date, the commissioner informed the applicants that their claims against the company amounted to 15,514,500 Italian lire (ITL – equivalent to 8,012.57 euros (EUR)) in respect of the first applicant and to ITL 54,126,633 (EUR 27,954.07) in respect of the second applicant. The applicants did not challenge these sums.

4. It further appears from the material submitted by the parties that the company's overall debts amounted to EUR 31,146,580.30, while its liquid assets amounted to EUR 69,272.74. Moreover, the liquidation proceedings also concerned ten other companies belonging to the same group. In this connection, more than 700 sets of judicial proceedings were brought with a view to recovering the group's assets.

5. The first partial distribution (*ripartizione parziale*) of the assets to the creditors took place on 20 July 1995. Subsequent distributions were carried out at approximately yearly intervals until 2001. By that date, the first applicant had received a total amount of EUR 7,451.69 and the second applicant had received EUR 25,997.29, corresponding to 93% of the amounts due to them. A final distribution took place on 21 March 2005, covering up to 96% of the company's liabilities, including the applicants' claims. In total, the first applicant received EUR 7,692.07 and the second applicant received EUR 26,835.91.

6. The compulsory administrative liquidation procedure was subsequently closed on 13 June 2007.

7. Meanwhile, on 18 September 2006, the applicants lodged an application with the Turin Court of Appeal under Law no. 89 of 24 March 2001, known as the "Pinto Act", seeking compensation for excessive length of the compulsory administrative liquidation procedure. However, relying on the domestic case-law in which it was found that the Pinto Act was inapplicable to compulsory administrative liquidation procedure (see paragraph 9 below), they subsequently asked the court to strike the case out of its list. With an order of 21 March 2007, the Turin Court of Appeal decided to strike the case out of its list.

8. Before the Court, the applicants complained of the allegedly excessive length of the compulsory administrative liquidation procedure and lack of domestic remedies. They relied on Article 6 § 1 and Article 13 of the Convention and on Article 1 of Protocol No. 1 to the Convention.

THE RELEVANT LEGAL FRAMEWORK

9. The relevant domestic law and practice – in accordance with which the procedures related to the liquidation of a company are administrative in nature, and the Pinto Act does not apply to them – are set out in *Cipolletta v. Italy* (no. 38259/09, §§ 13-18, 11 January 2018).

10. Following *Cipolletta* (cited above), the Italian Constitutional Court, in judgment no. 12 of 5 February 2020, held that the inapplicability of the

Pinto Act to compulsory administrative liquidation procedures did not result in the absence of a remedy in respect of their excessive length. It found that those concerned could have recourse to the remedy provided by section 2 *bis* of Law no. 241 of 7 August 1990 on administrative procedure. Under that provision – introduced by Law no. 69 of 18 June 2009 – the public administration (or the official responsible for a given set of administrative procedure) is required to compensate for any damage arising from a deliberate or negligent failure to comply with the time-limit for concluding the relevant administrative procedure.

THE COURT’S ASSESSMENT

A. The Government’s preliminary objections

11. The Government raised a preliminary objection, arguing that the complaint under Article 6 § 1 of the Convention should be declared inadmissible as incompatible *ratione materiae* with the provisions of the Convention. They submitted that Article 6 § 1 was not applicable to compulsory administrative liquidation procedures, which at the domestic level were deemed administrative.

12. The Court has already clarified that Article 6 § 1 applies to proceedings containing a mixture of contentious and non-contentious elements (see *Omdahl v. Norway*, no. 46371/18, § 47, 22 April 2021; *Siegel v. France*, no. 36350/97, § 33, ECHR 2000-XII; and *Credit and Industrial Bank v. the Czech Republic*, no. 29010/95, §§ 65-67, ECHR 2003-XI (extracts)), including compulsory administrative liquidation procedures (see *Cipolletta*, cited above, §§ 22-37). The Government’s objection in this regard must therefore be rejected.

13. The Government further raised a preliminary objection of non-exhaustion of domestic remedies. They argued that the applicants should have sought compensation for excessive length of the procedure either under Article 2043 of the Civil Code or under section 2 *bis* of Law no. 241 of 1990. The applicants challenged the Government’s objection. They argued that those remedies were unrelated to complaints concerning the length of proceedings and, in any event, imposed an excessive burden of proof on the claimants, who had to provide evidence of the existence of damage deriving from the length of proceedings.

14. The Court has already found that, at the domestic level, it was the Pinto Act that introduced into the Italian legal system a compensatory remedy for excessive length of judicial proceedings (see *Olivieri and Others v. Italy*, nos. 17708/12 and 3 others, § 50, 25 February 2016). In the light of the above and of the fact that the Government have not provided the Court with any examples from domestic case-law capable of demonstrating that an action under Article 2043 of the Civil Code offered a reasonable prospect of success,

the Court considers that this remedy cannot be regarded as effective in the present case.

15. As for the remedy under section 2 *bis* of Law no. 241 of 1990, the Court notes that the Constitutional Court, in its judgment no. 12 of 5 February 2020, identified it as an alternative procedural avenue to the Pinto remedy (see paragraph 10 above). In this connection, on the one hand, the Court welcomes the Constitutional Court's effort to indicate an alternative remedy in the light of the principle of subsidiarity and reiterates that in a system affording constitutional protection of fundamental rights, it is in principle for the aggrieved individual to test the extent of such protection before the domestic courts (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 159, 27 November 2023). On the other hand, it reiterates the principles set out in its case-law which – as highlighted in the Constitutional Court's judgment and in accordance with the principle of subsidiarity – guide domestic courts when interpreting and applying national law (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 195-207, ECHR 2006-V; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 86-98, ECHR 2006-V; *Gagliano Giorgi v. Italy*, no. 23563/07, § 69, ECHR 2012 (extracts); *Martins Castro and Alves Correia de Castro v. Portugal*, no. 33729/06, § 54, 10 June 2008; and *Marshall and Others v. Malta*, no. 79177/16, § 82, 11 February 2020).

16. However, in the present case, the Court notes that the compulsory administrative liquidation of the company ended in 2007, whereas the Constitutional Court's judgment no. 12 of 5 February 2020 was delivered well afterwards and referred to a provision introduced in 2009. The remedy in question was therefore not available to the applicants at the relevant time. Accordingly, the Court considers that this remedy cannot be regarded as effective in the present case. This objection of the Government must therefore also be rejected.

B. Complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention

17. The criteria for the assessment of the reasonableness of the length of proceedings have been set out in *Cocchiarella* (cited above, § 68) and, with specific regard to compulsory administrative liquidation procedures in Italy, in *Cipolletta* (cited above, § 42).

18. As regards the complexity of compulsory administrative liquidation procedure, the Court has clarified that where procedures constitute a framework in which a number of disputes concerning a variety of legal issues have been resolved by way of different sets of dispute proceedings, their specific features are to be taken into account (see *Omdahl*, cited above, §§ 54-55, and, *mutatis mutandis*, *Gilligan v. Ireland*, no. 55276/17, §§ 45-46, 18 March 2021). In particular, having regard to the purpose of the domestic

provisions concerning compulsory administrative liquidation procedures (*Cipolletta* cited above, §§ 26-29), the Court has found that their duration might depend to a very large extent on the time required for the recovery of assets and liquidation measures, which were at the same time influenced by the aim of maximising creditors' satisfaction. In this connection, the Court notes that in the present case, compulsory administrative liquidation of the company had to necessarily be conducted in parallel with that of ten other companies belonging to the same group and involved the initiation of more than 700 sets of judicial proceedings which were aimed at recovering assets (see paragraph 4 above). The Court therefore considers that the overall procedure – being the container of several hundred individual sets of proceedings – was particularly complex.

19. As regards the conduct of the parties, the Court notes that the commissioner made sustained efforts to recover the company's assets and satisfy creditors, ultimately enabling the repayment of almost the entirety of the company's liabilities (amounting to EUR 31,146,580.30; see paragraph 4 above). In addition – although in their entirety the proceedings lasted for an overall period of 18 years (from the acknowledgment of the applicants' claims against the company in 1989 to the closure of the procedure in 2007; see paragraphs 2-6 above) – partial distributions were carried out regularly from 1995 to 2001. By 2001, the applicants had received approximately 93% of their claims, while the final distribution, carried out in 2005 (see paragraph 5 above), covered up to 96% of the sums they sought.

20. As regards the possibility of recovering the remainder of their claims, the applicants, for their part, neither disputed that the company's assets were insufficient to satisfy them, nor provided any details as to their composition. Moreover, the Court notes that it does not appear from the documents in its possession that there were specific omissions or failures on the part of the commissioner in pursuing recovery actions.

21. In the light of the facts above, the Court considers that the length of the proceedings was primarily attributable to the extremely complex circumstances of the case.

22. It follows that this part of the application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

C. Alleged violation of Article 13 of the Convention

23. The applicants further raised complaints under Article 13 of the Convention.

24. Since the Court has found that the applicants' complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention are manifestly ill-founded, it follows that the applicants do not have an arguable claim under Article 13. This complaint is therefore incompatible *ratione materiae* with the provisions of the Convention (see, amongst many

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other authorities, *Walter v. Italy* (dec.), no. 18059/06, 11 July 2006) and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 24 September 2026.

Liv Tigerstedt
Deputy Registrar

Erik Wennerström
President