



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

FIRST SECTION

CASE OF TREMIGLIOZZI AND MAZZEO v. ITALY

(Application no. 24816/03)

JUDGMENT

STRASBOURG

21 July 2022

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

In the case of Tremigliozzi and Mazzeo v. Italy,

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

Alena Poláčková, *President*,

Raffaele Sabato,

Davor Derenčinović, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 30 June 2022,

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

PROCEDURE

1. The case originated in an application against Italy lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 1 March 2000.

2. The applicants were represented by Mr S. Ferrara, a lawyer practising in Benevento.

3. The Italian Government (“the Government”) were given notice of the application.

4. The first applicant, Ms Luigia Tremigliozzi, died after the institution of the proceedings before the Court. Her heir, Ms Giuseppina Cimino, wished to pursue the application. The Government did not object against the *locus standi* of the heir in the proceedings.

THE FACTS

5. The list of applicants and the relevant details of the application are set out in the appended table.

6. The applicants complained of the excessive length of civil proceedings. They also raised other complaints under the provisions of the Convention.

THE LAW

I. PRELIMINARY ISSUE OF WHETHER THE FIRST APPLICANT’S HEIR CAN PURSUE THE APPLICATION IN HER STEAD

7. The Court firstly takes note of the information regarding the death of the first applicant and the wish of her heir to continue the proceedings in her stead, as well as of the absence of an objection on the Government’s part to her standing. Therefore, the Court considers that the heir of Ms Luigia Tremigliozzi, Ms Giuseppina Cimino, has a legitimate interest in pursuing the application.

8. However, reference will still be made to the first applicant throughout the ensuing text.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

9. 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:

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 ...”

10. The Government submitted that the applicants failed to complain about the amount of compensation awarded by the decree of the Court of Appeal of Rome of 10 April 2003 within six months from the date when it became final, namely 30 July 2003. The Court notes that the applicants lodged their application on 1 March 2000 and, after the entry into force of Law no. 89 of 24 March 2001, known as the “Pinto Act”, they complained also of the amount of compensation received in “Pinto” proceedings. In the specific circumstances of the case, the Court does not find that the allegation concerning the amount of compensation awarded in “Pinto” proceedings is a separate complaint under Article 6 § 1 of the Convention. It is simply a further aspect in support of the complaint already set out in the application in relation to the length of civil proceedings (see, *mutatis mutandis*, *Merabishvili v. Georgia* [GC], no. 72508/13, § 250, 28 November 2017, with further references).

11. The period to be taken into consideration began on 18 February 1995 when the applicants filed an application with the Tribunal of Benevento, and were still pending at first instance on 10 April 2003, when the “Pinto” Court of Appeal gave judgment. The Court notes that the Court of Appeal of Rome assessed the duration of the proceedings as at the date of its decree, namely 10 April 2003. As the proceedings ended on 17 January 2020, a period of approximately 16 years and nine months could not be taken into account by the Court of Appeal.

12. The Court observes that, as regards the phase after 10 April 2003, the applicants should have exhausted domestic remedies once again by bringing the case before the Court of Appeal under the Pinto Act. In the light of the foregoing, the Court’s examination will be limited to the duration of the proceedings that were examined by the “Pinto” Court of Appeal (see *Armando Iannelli v. Italy*, no. 24818/03, § 47, 12 February 2013).

13. 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).

14. In the leading case of *Cocchiarella v. Italy* [GC], no. 64886/01, ECHR 2006-V, the Court already found a violation in respect of issues similar to those in the present case.

15. 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. 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.

16. These complaints about the length of proceedings before 10 April 2003 are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

III. REMAINING COMPLAINTS

17. The applicants also raised other complaints under various Articles of the Convention.

18. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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.”

20. 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 and to dismiss the remainder of the applicants’ claim for just satisfaction.

21. The Court further considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds* that the first applicant's heir, Ms Giuseppina Cimino, has standing to continue the present proceedings in her stead;
2. *Declares* the complaints concerning the excessive length of civil proceedings until 10 April 2003 admissible, and the remainder of the application inadmissible;
3. *Holds* that these complaints 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 heir of the first applicant, Ms Giuseppina Cimino, and the second applicant, 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.
5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 21 July 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Alena Poláčková
President

APPENDIX

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

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
24816/03 01/03/2000	Luigia TREMIGLIOZZI, deceased on 27/10/2016 Heir Giuseppina CIMINO 1953 Rocco MAZZEO 1947	Ferrara Silvio Benevento	18/02/1995	10/04/2003 (date of the deposit of the decree of the Court of Appeal of Rome in "Pinto" proceedings)	8 year(s) and 1 month(s) and 24 day(s) 1 level(s) of jurisdiction	Decree of the Court of Appeal of Rome of 10 April 2003, 800 per applicant	3,220	1,000

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

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