



## Grand Chamber hearing concerning inability of injured parties to have their civil claims adjudicated in criminal proceedings

The European Court of Human Rights is holding a **Grand Chamber**<sup>1</sup> hearing today **Wednesday 12 July 2023 at 9.15 a.m.** in the case of **Fabbri and Others v. San Marino** (application nos. 6319/21, 6321/21 and 9227/21).

The case concerns delays in separate criminal investigations resulting in the alleged offences becoming time-barred.

*A recording of the hearing will be available this afternoon on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int)). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.*

The applicants, Stellino Fabbri, Andrea Forcellini and Angelina Marro, are two San Marinese and one Italian national respectively. They were born in 1955, 2003 and 1973 respectively and live in San Marino.

In 2016 Mr Fabbri and Ms Marro lodged a criminal complaint for personal injury and expressed their intention to join the criminal proceedings as civil parties.

In 2018 a criminal investigation was opened against two individuals for violence and persecution against Mr Forcellini. He submitted a request to join the criminal proceedings as a civil party.

The investigating judge assigned to both cases did not, however, take any steps. This resulted in the charges becoming time-barred and in 2020 the Prosecutor agreeing to discontinue the cases.

### Procedure

The applications were lodged with the European Court of Human Rights on various dates in 2021.

Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, the applicants complain that the time-barring as a result of the authorities' inaction led to their being unable to have their civil claims adjudicated in the criminal proceedings; thus, they allege that they were denied access to court.

In its [judgment](#) of 18 October 2022, the Court held, by 4 votes to 3, that there had been a violation of Article 6 § 1 of the European Convention on Human Rights in respect of the three applicants. The Court found in particular that the circumstances leading to the failure to consider the applicants' civil-party claims during the criminal proceedings had been entirely attributable to the judicial authorities, whose total inactivity had resulted in the prosecution becoming time-barred.

On 6 March 2023 the three applications were referred to the Grand Chamber at the San Marinese Government's request.

The Government of Italy have been granted leave to intervene in the proceedings as third parties.

<sup>1</sup> Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Síofra **O’Leary** (Ireland), *President*,  
Georges **Ravarani** (Luxembourg),  
Marko **Bošnjak** (Slovenia),  
Gabriele **Kucsko-Stadlmayer** (Austria),  
Pere **Pastor Vilanova** (Andorra),  
Arnfinn **Bårdsen** (Norway),  
Krzysztof **Wojtyczek** (Poland),  
Alena **Poláčková** (Slovakia),  
Péter **Paczolay** (Hungary),  
Ivana **Jelić** (Montenegro),  
Gilberto **Felici** (San Marino),  
Darian **Pavli** (Albania),  
Erik **Wennerström** (Sweden),  
Lorraine **Schembri Orland** (Malta),  
Peeter **Roosma** (Estonia),  
Ana Maria **Guerra Martins** (Portugal),  
Andreas **Zünd** (Switzerland), *judges*,  
Egidijus **Kūris** (Lithuania),  
Davor **Derenčinović** (Croatia),  
Yonko **Grozev** (Bulgaria), *substitute judges*,

and also Johan **Callewaert**, *Deputy Grand Chamber Registrar*.

## Representatives of the parties

### Government

Sabrina **Bernardi**, *Agent*,  
Michela **Bovi**, *Co-Agent*,  
Barbara **Reffi**, Alessandra **Belardini** and Simona **Ugolini**, *Advisers*;

### Applicant

Rossano **Fabbri**, *Counsel*,  
Christina **Ioli** and Simone **Bacci**, *Advisers*.

## Third parties

Lorenzo **D’Ascia** and Chiarra **Buffon** will also attend the hearing as the representatives of the Government of Italy.

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.