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

FIRST SECTION

DECISION

Application no. 7997/21
Ascanio DI GIUSEPPE
against Italy

The European Court of Human Rights (First Section), sitting on 5 December 2023 as a Committee composed of:

Péter Paczolay*, President*,
Gilberto Felici,
Raffaele Sabato*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 7997/21) 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 22 January 2021 by an Italian national, Mr Ascanio Di Giuseppe ("the applicant"), who was born in 1958 and lives in Pescara;

the decision to give notice of the complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention concerning the non-enforcement of "Pinto" decisions to the Italian Government ("the Government"), represented by their Agent, Mr L. D'Ascia, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

A. Facts of the case

1. The application concerns the non-enforcement of four decisions awarding compensation for the excessive length of judicial proceedings under Law no. 89 of 24 March 2001, known as the "Pinto Act" ("Pinto" decisions) issued by the Aquila Court of Appeal on 17 January 2018 (R.G. no. 242/2017), 12 November 2018 (R.G. no. 315/2018), 16 January

2019 (R.G. no. 216/2018), and 12 February 2019 (R.G. no. 348/2018) respectively.

2. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention of the non-enforcement of the four above domestic decisions in his favour.

B. Relevant domestic law

3. The domestic law concerning the Pinto Act is set out in the *Cocchiarella v. Italy* judgment ([GC], no. 64886/01, §§ 23-31, ECHR 2006-V). The Pinto Act was subsequently amended in 2012 (Law-Decree no. 83 of 2012, converted into Law no. 134 of 7 August 2012) and in 2015 (section 1, paragraph 777, of Law no. 208 of 28 December 2015).

4. The relevant provisions of the Pinto Act, following the above amendments, are as follows:

Section 5 *sexies* (terms of payment)

"1. In order to receive the payment of the sums awarded pursuant to the present Act, the creditor shall issue a declaration [...] to the debtor authority, certifying that no sums have been paid in execution of the relevant domestic decision, indicating whether enforcement proceedings have been instituted for the judgment debt, the sum that the authorities are still required to pay and the preferred method of payment pursuant to paragraph 9 of the present section. The creditor shall also submit the necessary documents required under the decrees indicated in paragraph 3.

...

3. A model declaration pursuant to paragraph 1 and the documents to be submitted to the debtor authority shall be determined by decrees of the Ministry of Economy and Finance, to be issued before 30 October 2016. The authorities shall publish the forms and documents referred to in the latter sentence on their institutional websites. ...

4. In the event of an absent, incomplete or irregular submission of the declaration or documentation referred to in the preceding paragraphs, the payment order may not be issued.

5. The authority shall make the payment within six months from the date on which the obligations provided for in the preceding paragraphs are fully discharged. The time-limit referred to in the preceding sentence shall not begin to run in the event of absent, incomplete or irregular submission of the declaration or documentation referred to in the preceding paragraphs.

...

9. The payment of the sums owed under the present Act is made crediting the sums to the creditors' current or payment accounts. Payments in cash and through bills of exchange are only possible for sums not exceeding 1,000 euros."

THE COURT'S ASSESSMENT

5. The Government argued that the applicant had failed to submit a declaration containing the necessary information for the authorities to proceed to the payment of the judgment debt, as well as supporting documents. They contended that such documents must be submitted in order to issue the payment of sums awarded in "Pinto" decisions, as required under Article 5 *sexies* of the Pinto Act (see paragraph 4 above).

6. The applicant submitted that he had sent the relevant declarations required under Article 5 *sexies* to the debtor authority twice, on 1 April 2020 and on 27 October 2022.

7. The Court reiterates that a successful litigant may be required to undertake certain procedural steps in order to recover the judgment debt, be it during a voluntary execution of a judgment by the State or during its enforcement by compulsory means (see *Shvedov v. Russia*, no. 69306/01, §§ 29-37, 20 October 2005). Accordingly, it is not unreasonable that the authorities request the applicant to produce additional documents, such as bank details, to allow or speed up the execution of a judgment (see, *mutatis mutandis*, *Kosmidis and Kosmidou v. Greece*, no. 32141/04, § 24, 8 November 2007; *Burdov v. Russia (no. 2)*, no. 33509/04, § 69, ECHR 2009; and *Arbačiauskienė v. Lithuania*, no. 2971/08, § 86, 1 March 2016). The creditor's uncooperative behaviour may be an obstacle to timely enforcement of a judgment, thus alleviating the authorities' responsibility for delays (see *Belayev v. Russia* (dec.), no. 36020/02, 22 March 2011). In fact, while the primary responsibility for enforcement of a judgment against the State lies with the authorities, they cannot comply with their obligations without the applicants' minimal cooperation to that effect (*Gadzhikhanov and Saukov v. Russia*, nos. 10511/08 and 5866/09, § 29, 31 January 2012, and *Kuzhelev and Others v. Russia*, nos. 64098/09 and 6 others, § 106, 15 October 2019).

8. The Court notes that the requirement for the creditor to submit a declaration indicating the relevant domestic decision, the sum that the authorities are still required to pay and the preferred method of payment is established in clear terms by Article 5 *sexies* of the Pinto Act (see paragraph 4 above). The Court takes note of the Government's statement that this option is meant to facilitate and accelerate the payment of judicial awards by the State.

9. The Court agrees with the Government that the obligation to send the declaration and supporting documents under Article 5 *sexies* of the Pinto Act constitutes a reasonable procedural step which is required of the creditor in order to obtain sums awarded by "Pinto" decisions. The failure of the creditor to comply with this obligation constitutes an obstacle to enforcement of the decisions in his favour, for which the authorities cannot be held responsible (see *Gadzhikhanov and Saukov*, cited above, § 29).

10. In this connection, the Court observes that the applicant submitted that he had sent the declaration required under Article 5 *sexies* (relating to the non-enforcement of the domestic decisions which was the subject of the application) to the debtor authority twice. However, the Court notes that he failed to submit any documents in support of that claim.

11. In these circumstances, the Court finds that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 11 January 2024.

Liv Tigerstedt Deputy Registrar	Péter Paczolay President