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

FIRST SECTION

DECISION

Applications nos. 27511/15 and 34936/15
Sebastiano FILIPPIN against Italy
and Ettore DITTA against Italy

The European Court of Human Rights (First Section), sitting on 13 November 2025 as a Committee composed of:

Frédéric Krenc*, President*,
Raffaele Sabato,
Alain Chablais*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 27511/15 and 34936/15) 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") by two Italian nationals, Mr Sebastiano Filippin and Mr Ettore Ditta, both born in 1946 and residing respectively in Vajont and Mazara del Vallo ("the applicants"), on 29 May and 9 July 2015;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applications mainly concern the question of whether rulings delivered by the domestic courts – namely, that tax reimbursement claims lodged by the applicants had been time-barred – were compatible with Article 6 § 1 and Article 13 of the Convention.

2. The first and second applicants took voluntary redundancy in 2000 and 1998 respectively. Given that, at the time, they were both men aged between 50 and 55 years old, they did not qualify for a reduced tax rate under Article 17 § 4 *bis* of Presidential Decree no. 917 of 22 December 1986 (Decree no. 917/1986) in respect of the sums they received at the termination of their employment relationships. Indeed, under that provision, only women over the age of 50 and men over the age of 55 were eligible for the reduced tax rate.

3. The first and second applicants sought the reimbursement of the taxes paid in accordance with the above-mentioned provision in 2006 and 2009 respectively. They relied on the judgment of the Court of Justice of the European Communities ("the CJEC", which on 1 December 2009 became known as the Court of Justice of the European Union – "the CJEU") in *Vergani* (21 July 2005, C-207/04, EU:C:2005:495), which had found that Article 17 § 4 *bis* of Decree no. 917/1986 amounted to discrimination on the grounds of sex and was, therefore, incompatible with Council Directive 76/207/EEC of 9 February 1976 which required member States to guarantee that men and women were not discriminated against on the grounds of sex with regard to working conditions (including the conditions governing dismissal).

4. The applicant's complaints were allowed at first and second instance. However, the Court of Cassation, by judgment no. 25837 of 5 December 2014 in respect of the first applicant and by judgment no. 117 of 9 January 2015 in respect of the second applicant, rejected the claims as time-barred under Article 38 of Presidential Decree no. 602/1973, which provided a 48-month limitation period beginning on the date of payment.

5. The applicants complained under Article 6 § 1 and Article 13 of the Convention of the unreasonable application of the time-limit for lodging reimbursement claims. They submitted that, by deeming that the time-limit had begun to run before they had had objective knowledge – as a result of the *Vergani* judgment – of their right to obtain reimbursement, the domestic authorities had unreasonably prevented their claims from being examined on the merits, in violation of their right to effective access to court.

6. Relying on Article 14 taken in conjunction with Article 1 of Protocol No. 1, the applicants also argued that they had been discriminated against in the enjoyment of their possessions. The first applicant further relied on Article 7 of the Convention.

THE COURT'S ASSESSMENT

A. Joinder of the applications

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Complaint under Article 6 § 1 of the Convention

8. The Court notes that the role of Article 6 in relation to Article 13 is that of a *lex specialis*, the requirements of Article 13 being absorbed by the more stringent requirements of Article 6 (see, for example, *Baka v. Hungary* [GC], no. 20261/12, § 181, 23 June 2016). It will therefore consider the applicants'

complaints under these two Articles from the standpoint of Article 6 § 1 of the Convention alone.

9. It observes at the outset that no tax surcharges or tax fines were imposed on the applicants and that the proceedings did not have any "criminal connotation". It follows that the criminal limb of Article 6 is not applicable in the present case.

10. As to the civil limb of Article 6, the Court does not find it necessary to determine whether it is appliable in the present case since even assuming its applicability (see *National & Provincial Building Society, Leeds Permanent Building Society and Yorkshire Building Society v. the United Kingdom*, 23 October 1997, § 97, Reports of Judgments and Decisions 1997-VII; also contrast *Ferrazzini v. Italy* [GC], no. 44759/98, § 29, ECHR 2001-VII; *Stere and Others v. Romania*, no. 25632/02, § 30, 23 February 2006; and *Cabinet Diot S.A. and Gras Savoye v. France* (dec.), nos. 49217/99 and 49218/99, § 2, 3 September 2002), this part of the application is in any event inadmissible for the following reasons.

11. The Court notes that in a ruling of 16 January 2008 (see *Molinari*, 16 January 2008, Joined Cases C-128/07 to C-131/07, EU:C:2008:15) the CJEC clarified that Council Directive 76/207/EEC was sufficiently precise and unconditional to be relied upon directly by individuals before national courts. In the same judgment, the CJEC also held that as long as measures restoring equal treatment had not been adopted, national courts were required to set aside any discriminatory provision and apply the more favourable arrangements to the disadvantaged group.

12. The Court further observes that the CJEC's judgment in *Vergani* (cited above) did not create a new right either at the domestic or at the EU level; rather, it clarified the meaning and scope of the relevant rule of Community law, acknowledging that the contested domestic legislation was incompatible *ab initio* with that rule. The Court also observes that, although the CJEC's subsequent ruling of 16 January 2008 (see paragraph 11 above) reiterated the obligation of domestic courts to set aside discriminatory provisions and apply the more favourable arrangements to the disadvantaged group, it did not request that member States reopen domestic proceedings which had already ended in a final judgment.

13. In this connection, the Court takes into account the fact that the CJEC has clarified in its case-law that its own interpretation of a rule set out by EU law must be applied by national courts to legal relationships which arose and were established before its judgment was issued, as long as the other conditions for bringing a case before the domestic courts are met (see, among many other authorities, *Roders and Others*, 11 August 1995, Joined Cases C-367/93 to C-377/93, EU:C:1995:261, and *Denkavit italiana*, 27 March 1980, C-61/79, EU:C:1980:100). In particular, in respect of the reimbursement of charges imposed in breach of EU law, the CJEC (subsequently the CJEU) held that member States retain the right to

apply domestic procedural rules, subject to observance of the principles of equivalence and effectiveness (see *Deville*, 29 June 1988, Case 240/87, EU:C:1988:349, and, more recently, *Caterpillar Financial Services*, 20 December 2017, Case C-500/16, EU:C:2017:996). The CJEU has further clarified that it is compatible with EU law to lay down reasonable time-limits for bringing proceedings in the interest of legal certainty which protects both the individual and the authorities concerned, even if the expiry of those periods necessarily entails the dismissal, in whole or in part, of the action brought (see *Caterpillar Financial Services*, cited above, § 42). By way of example, limitation periods of three years and two years have been held to be compatible with the principle of effectiveness (ibid.).

14. In the light of the above, the Court finds that the applicants could have raised the issue of the incompatibility of the domestic legislation with Directive 76/207/EEC before the competent domestic authorities at the time of payment or, at the very least, within the time-limit provided by Article 38 of Presidential Decree no. 602/1973 – without waiting for the CJEC to deliver a ruling declaring the relevant legislation incompatible. In this connection, the Court considers that the four-year time-limit provided under domestic law appears to be reasonable and cannot be said to limit in an excessive manner access to court as guaranteed by Article 6 of the Convention.

15. Moreover, the Court observes that the applicants did not provide any evidence that would allow it to conclude that, if they had raised their complaints concerning the incompatibility of the domestic legislation with Directive 76/207/EEC at the time of the relevant tax payments or within the time-limit laid down by Article 38 of Presidential Decree no. 602/1973 – as the applicant in *Vergani* had done – those complaints would have been rejected (compare and contrast *S.A. Dangeville v. France,* no. 36677/97, §§ 38-40 and 61, ECHR 2002-III, and *Aon Conseil and Courtage S.A. and Christian de Clarens S.A. v. France*, no. 70160/01, §§ 41-42, 25 January 2007).

16. It follows that this part of the application is manifestly ill-founded and must be rejected, in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Remaining complaints

17. As to the first applicant's complaint under Article 7 of the Convention, the Court reiterates that the proceedings do not have any "criminal connotation" (see paragraph 9 above). The complaint is therefore incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 of the Convention.

18. As to the remaining complaint raised under Article 14 taken in conjunction with Article 1 of Protocol No. 1, the Court recalls the considerations noted above in respect of Article 6 § 1 of the Convention (see paragraph 14 above), according to which the applicants should have raised

their complaints before the domestic courts within the time-limit prescribed by domestic law. If, at the time, they considered that no effective remedy was available, they should have brought the complaint before the Court within six months[1] from the alleged violation (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 157, ECHR 2009). In the light of the above, the Court considers that the six-month time-limit laid down in Article 35 § 1 of the Convention has not been respected.

19. It follows that this part of the applications must be rejected as lodged out of time, in accordance with Article 35 §§ 1 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 4 December 2025.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President

[1] Protocol No. 15 to the Convention has shortened to four months from the final domestic decision the time-limit provided for by Article 35 § 1 of the Convention. However, in the present case the six-month period still applies, given that the final domestic decision was taken prior to 1 February 2022, date of entry into force of the new rule (pursuant to Article 8 § 3 of Protocol No. 15 to the Convention).