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

FIRST SECTION

DECISION

Application no. 14301/07
Alberto LANDOLFI against Italy
and 8 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 22 May 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 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 the applicants listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to give notice of the complaints concerning the right of access to a court and the excessive length of the proceedings under Article 6 and the lack of effective domestic remedies under Article 13 of the Convention to the Italian Government ("the Government") represented by their Agent, Mr L. D'Ascia, and to declare inadmissible the remainder of the applications;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present applications concern the rights of the injured and the civil parties in criminal proceedings relating to the excessive length of the proceedings and the right of access to a court.

2. On various dates the applicants lodged criminal complaints with the domestic authorities in respect of specific offences of which they claimed to be victims. The domestic authorities discontinued the proceedings for expiry of the statutory limitation after the applicants had joined those proceedings as

civil parties. The details of the proceedings are indicated in the appended table.

3. The applicant in application no. 14301/07 also brought proceedings under Law no. 89 of 24 March 2001 ("Pinto proceedings") in order to obtain compensation for the excessive length of the criminal proceedings (see appended table). The domestic courts considered the submission of the request to join the proceedings as a civil party as the starting point to determine the length of the criminal proceedings and did not find that a reasonable time had been exceeded.

4. All the applicants complained under Article 6 § 1 of the Convention that they did not have access to a court to determine their civil claims as a result of the inaction of the authorities which had led to the discontinuance of the criminal proceedings in which they were injured parties.

5. With respect to applications nos. 14301/07, 8008/09, 19332/15, 30021/18 and 30027/21, the applicants also complained of the excessive length of the domestic proceedings, arguing that the stage of the preliminary investigation should be taken into account to determine the overall length of the proceedings.

6. Furthermore, the applicants in applications nos. 19332/15 and 30027/21 complained under Article 13 of the Convention of the absence of an effective remedy to obtain compensation for the excessive length of the preliminary investigations.

7. Some of the applicants also complained under Articles 8 and 13 (application no. 64647/14); Article 7 § 2 (application no. 19332/15); and Article 1 of Protocol No. 1 (applications nos. 30027/21, 21256/22 and 21197/22) that, by dismissing the criminal proceedings, the domestic authorities had not afforded adequate protection to their rights.

THE COURT'S ASSESSMENT

A. Joinder of the applications

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

B. Alleged violation of Article 6 of the Convention

1. The length of the proceedings (applications nos. 14301/07, 8008/09, 19332/15, 30021/18 and 30027/21)

9. The parties disagreed in respect of the applicability of Article 6 of the Convention in its civil limb in the context of the criminal proceedings before the applicants formally joined the proceedings as a civil party. As to applications nos. 8008/09, 19332/15, 30021/18 and 30027/21, the Government also claimed that the applicants had failed to exhaust the

available domestic remedies as they had not brought Pinto proceedings to obtain compensation.

10. The Court has summarised the relevant principles on the applicability of Article 6 of the Convention in its civil limb in the context of criminal proceedings in *Fabbri and Others v. San Marino* ([GC], nos. 6319/21 and 2 others, §§ 77-93, 24 September 2024). In that case, it found that, where domestic law provides for the formal status of "civil party", Article 6 will apply only if, and from the time when, the applicant has lodged a formal request to obtain such status, even if it has not yet been decided upon (ibid., § 90).

11. The Court notes from the outset that the Grand Chamber's judgment in *Fabbri and Others* adopted a different approach from that taken in previous cases lodged against Italy, where the Court had found Article 6 applicable in its civil limb at the investigative stage of the proceedings despite the fact that, according to domestic law, the injured party can join the proceedings as a civil party only at a later stage (see *Sottani v. Italy* (dec.), no. 26775/02, ECHR 2005-III (extracts); *Patrono, Cascini and Stefanelli v. Italy*, no. 10180/04, § 33, 20 April 2006; *Arnoldi v. Italy*, no. 35637/04, § 44, 7 December 2017; and *Petrella v. Italy*, no. 24340/07, § 23, 18 March 2021).

12. In the present case it is not in dispute that as victims of the alleged offences the applicants had a substantive right, recognised under domestic law, to compensation for the damage they had allegedly sustained, this being a civil right, and that Article 76 of the Code of Criminal Procedure ("the CPP") endowed the applicants with a (procedural) right of action to pursue that civil right in the context of the criminal proceedings.

13. As to whether the civil right at issue (compensation for the damage allegedly sustained) was invoked and/or pursued using the appropriate channel, in accordance with the tenets of the domestic legal framework, the Court notes that, in Italy, domestic law provides for a formal status of "civil party", subject to certain conditions. In particular, an injured party must make a formal request by means of a declaration under Article 78 of the CPP to be admitted as a civil party in the criminal proceedings (*dichiarazione di costituzione di parte civile*).

14. It is only the civil party who has been duly joined to the proceedings in accordance with the law who has the right to obtain a determination of that civil claim in the case of conviction. Thus, in the absence of a declaration under Article 78 of the CPP, it cannot be considered that a civil right has been invoked in the criminal proceedings and/or pursued via the appropriate channel. Furthermore, if the injured party fails to make the civil claim in the framework of criminal proceedings, this does not prevent that person from having the claim resolved in civil proceedings (see Article 75 of the CPP governing the relationship between separate sets of civil and criminal proceedings concerning the same matter).

15. In the present applications, the applicants lodged a declaration under Article 78 of the CPP and joined the criminal proceedings as civil parties. In

application no. 14301/07, the applicant lodged such a declaration in respect of the criminal proceedings against R.D.C. but not in the proceedings against M.R. (see the appended table). It follows that, although the civil right at issue was invoked by the applicants using the appropriate channel and in accordance with the tenets of the domestic legal framework (with regard to application no. 14301/07 only in respect of the proceedings against R.D.C.), the proceedings in question involved the determination of a "civil right" within the meaning of Article 6 of the Convention only after the applicants submitted their request to join the criminal proceedings.

16. Against this background, these applicants' complaint under Article 6 of the Convention in respect of the length of the proceedings prior to the submission of a formal request to obtain the status of civil party, namely the stage of the preliminary investigations (including the proceeding against M.R. referred to in application no. 14301/07), is incompatible *ratione materiae* with the provisions of the Convention and must be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

17. As to the part of the complaint concerning the excessive length of the proceedings following these applicants' submission of the request to join the criminal proceedings as civil parties, the Court must distinguish between application no. 14301/07 on the one hand and applications nos. 8008/09, 19332/15, 30021/18 and 30027/21 on the other hand.

18. In application no. 14301/07, the applicant brought Pinto proceedings to obtain compensation for the excessive length of the proceedings against R.D.C., which was rejected by the domestic authorities as the length of the proceedings had not exceeded the reasonable time from the date of the applicant's request to be admitted to as civil party.

19. After examining the facts in the light of the information provided by the parties, and having regard to its case-law on the subject (see, among other authorities, *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, § 209, 25 June 2019), the Court considers that the length of the criminal proceedings in question – four months and two weeks – was not excessive and did not fail to meet the "reasonable time" requirement. Therefore, this part of the complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

20. With respect to applications nos. 8008/09, 19332/15, 30021/18 and 30027/21, the applicants failed to lodge a request before the domestic courts to obtain compensation for the excessive length of the proceedings under the Pinto Law. Nothing in the case files suggests that the authorities would not have afforded the applicants a genuine opportunity to obtain redress for their grievances from the moment that they requested to join the proceedings as civil parties, if all the requirements provided by the law had been met (compare *Cocchiarella v. Italy* [GC], no. 64886/01, § 41, ECHR 2006-V). Accordingly, this part of their complaint must be rejected for failure to exhaust domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

2. The right of access to a court

21. The Government argued that the applications be declared inadmissible as all applicants had failed to lodge a separate set of civil proceedings to obtain compensation. The applicants disagreed.

22. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), considers that the complaints raised in applications nos. 64647/14, 19332/15, 30021/18, 30027/21, 21256/22 and 21197/22 under several Articles of the Convention (see paragraph 7 above) fall to be examined under Article 6 of the Convention.

23. The general principles concerning access to a court in relation to civil claims brought in the ambit of criminal proceedings have been summarised in *Fabbri and Others*, cited above, §§ 132-40.

(a) Applications nos. 14301/07, 8008/09, 15554/13, 19332/15, 30021/18, 30027/21, 21197/22 and 21256/22

24. With regard to applications nos. 8008/09, 19332/15, 30021/18, 30027/21, 21197/22 and 21256/22, the Court observes that, after the applicants had filed the request to join the proceedings as civil parties, the domestic authorities conducted the proceedings in an efficient manner, including numerous activities which necessity and time-effectiveness were uncontested by the parties, such as holding hearings, admitting evidence and calling witnesses. Therefore, irrespective of sporadic conduct that might have caused some delays, the lawful discontinuance of the criminal proceedings was not the result of a serious dysfunction of the domestic system but was rather based on lawful grounds which were not applied arbitrarily or unreasonably (compare *Fabbri and Others*, cited above, §§ 137-38).

25. As to applications nos. 14301/07 and 15554/13, the applicants did not demonstrate that, after they joined the proceedings as civil parties, the domestic authorities failed to conduct the trial in a diligent manner or that a serious dysfunction of the domestic system was the sole and decisive reason leading to the dismissal of the proceedings (see *Fabbri and Others*, cited above, § 140).

26. Accordingly, and considering that all of the above applicants had *ab initio* an alternative avenue of redress capable of determining the civil claims at issue, the applicants' complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

(b) Application no. 64647/14

27. In application no. 64647/14, following two requests by the prosecutor to dismiss the proceedings against the suspect which were rejected, the suspect was charged on 30 June 2009 with a decree of the prosecutor directly

committing the accused to trial (*citazione diretta a giudizio*). The applicant lodged the request to join the proceedings as a civil party on 10 January 2011 and acquired this status on the same day. On 9 May 2011 the Varese District Court found that the accused could not be committed to trial by decree without first holding a preliminary hearing. Accordingly, it sent the case to the judge responsible for the preliminary hearing. On 4 November 2011 that judge found that she could not schedule a preliminary hearing on her own motion, but exclusively upon the prosecutor's request, who was ordered to submit it. The request was filed more than two years later, on 16 January 2014, and was granted on 11 March 2014. At the preliminary hearing of 18 April 2014, the proceedings were dismissed for expiry of statutory limitation.

28. The Court observes that the applicant complained of the alleged violation of his right of access to a court solely on account of the authorities' conduct before he joined the proceedings, specifically the delays caused by the two requests for dismissal by the prosecutor and the prosecutor's decision to commit the accused to trial without holding the preliminary hearing, the latter which the applicant claimed had caused "further delay". However, he did not argue that the prosecution had failed to file the request for a preliminary hearing and that this prevented his access to a court. The applicant referred to this delay only in the statement of facts and he did not submit any observations.

29. In this connection, the Court reiterates that a complaint in Convention terms comprises two elements, namely factual allegations (that is, to the effect that the applicant is the "victim" of an act or omission) and the legal arguments underpinning them (that is, that the said act or omission entailed a "violation by [a] Contracting Party of the rights set forth in the Convention or the Protocols thereto"). These two elements are intertwined because the facts complained of ought to be seen in the light of the legal arguments adduced and vice versa (*Grosam v. the Czech Republic* [GC], no. 19750/13, § 88, 1 June 2023). Moreover, the complaints the applicant proposes to make under Article 6 of the Convention must contain all the parameters necessary for the Court to define the issue it will be called upon to examine. It must be stressed that the scope of application of Article 6 of the Convention is very broad and that the Court's examination is necessarily delimited by the specific complaints submitted to it (ibid., § 89). Therefore, the Court can base its decision only on the facts complained of. It follows that it is not sufficient that a violation of the Convention is "evident" from the facts of the case or the applicant's submissions. Rather, the applicant must complain that a certain act or omission entailed a violation of the rights set forth in the Convention or the Protocols thereto, in a manner which should not leave the Court to second-guess whether a certain complaint was raised or not (ibid., § 90).

30. In view of the above, the Court considers that the applicant's reference to alleged dysfunctions of the domestic system at the investigative stage

cannot be interpreted as complaining of the conduct of the domestic authorities in respect of the stage of the proceedings following the moment in which he joined the proceedings as a civil party. Had the applicant intended to complain of an alleged dysfunction also at this stage, he should have expressly mentioned the shortcomings of the prosecutor in lodging the request to hold the preliminary hearing in the application form.

31. Therefore, in light of the applicant's failure to raise a complaint as to the alleged dysfunctions of the domestic proceedings after he joined those proceedings as a civil party, the complaint under Article 6 § 1 of the Convention concerning the right of access to a court is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

C. Alleged violation of Article 13 of the Convention

32. As to the complaint raised under Article 13 of the Convention in applications nos. 19332/15 and 30027/21, the Court notes that, having regard to the finding in respect of Article 6 of the Convention (see paragraphs 16 and 20 above), Article 13 of the Convention does not apply in the present case as the applicants did not have an "arguable" complaint under any Article of the Convention or of its Protocols (see *Maurice v. France* [GC], no. 11810/03, § 106, ECHR 2005-IX). The complaint is therefore incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 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 12 June 2025.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President

APPENDIX

List of applications

No.	Application no. Case name Introduction date	Applicant's name Year of birth Place of residence Nationality	Representative's name Location	Domestic proceedings
1.	14301/07 Landolfi v. Italy 15/03/2007	**Alberto LANDOLFI** 1958 Savona Italian	Massimiliano VALCADA Savona	**Main proceedings**: Criminal complaint for defamation 17/12/1996 Milan office of the prosecution *Criminal proceedings against R.D.C.* (R.G. 11483/96): Request to join the proceedings as civil party 12/05/2004 Committal to trial of the accused 13/05/2004 Judgment discontinuing the proceedings for expiry of statutory limitation Milan District Court (R.G. 8524/2004) 28/09/2004 *Criminal proceedings against M.R.* (R.G. 4235/04): Order dismissing the proceedings Judge for preliminary investigations Milan District Court (R.G. G.I.P. 215527/2004) 23/05/2004 **Pinto proceedings with regard to both set of proceedings:** Brescia Court of Appeal (R.G. 58/05) 16/06/2005 (final 17/09/2006)
2.	8008/09 Porchetta v. Italy 30/12/2008	**Franca PORCHETTA** 1961 Santi Cosma e Damiano Italian	Brenda Rita FERRO Sessa Aurunca	Criminal complaint filed by third parties against the applicant 06/04/1999 Latina office of the prosecution Criminal complaint for aggression filed by the applicant 25/05/1999 Latina office of the prosecution Committal to trial of the applicant for defamation and of the third party accused by the applicant for injuries 23/10/2001 Request to join the proceedings as civil party 19/11/2003

No.	Application no. Case name Introduction date	Applicant's name Year of birth Place of residence Nationality	Representative's name Location	Domestic proceedings
				Judgment discontinuing the proceedings for expiry of statutory limitation Latina District Court (section of Gaeta) (R.G. 61/02) 22/12/2008
3.	15554/13 Larini and Others v. Italy 30/01/2013	**Graziano LARINI** 1957 Lecce Italian **Mariagrazia CIPRESSA** 1974 Lecce Italian **Sandro CIPRESSA** 1943 Lecce Italian **Rosaria DE BRACO** 1967 Lecce Italian **Fernanda MARCUCCIO** 1942 Lecce Italian **Rita MARCUCCIO** 1949 Lecce Italian	Giuseppe CIPRESSA Galatone	Criminal complaint for corporate crimes Date unknown Committal to trial of the accused 02/04/2007 Request to join the proceedings as civil party 09/07/2007 Judgment discontinuing the proceedings for expiry of statutory limitation Lecce District Court (R.G. 282/07) 11/05/2012
4.	64647/14 Mascetti v. Italy 18/09/2014	**Andrea MASCETTI** 1971 Varese Italian	Anton Giulio LANA Rome	Criminal complaint for libel 31/10/2006 and 04/11/2006 Varese office of the prosecution Committal to trial of the accused 09/05/2011 Request to join the proceedings as civil party (and admission to the proceedings) 09/05/2011 On the same day the Varese District Court found that

No.	Application no. Case name Introduction date	Applicant's name Year of birth Place of residence Nationality	Representative's name Location	Domestic proceedings
				the accused had been committed to trial without holding the preliminary hearing. Request to schedule the preliminary hearing 16 January 2014 Varese office of the prosecution Judgment discontinuing the proceedings for expiry of statutory limitation Varese District Court (R.G. 1254/07) 02/05/2014
5.	19332/15 Scivolo and Others v. Italy 14/04/2015	**Francesca SCIVOLO** 1966 Turin Italian **Simone RANDAZZO** 1992 Turin Italian **Valentina RANDAZZO** 1988 Turin Italian	Andrea ANFUSO ALBERGHINA Caltagirone	Criminal complaint for illegal surveillance 11/04/2007 Caltagirone office of the prosecution Committal to trial of the accused Judge for preliminary investigations Caltagirone District Court (R.G.G.I.P. 1611/13) 05/12/2013 Request to join the proceedings as civil party 05/12/2013 Judgment discontinuing the proceedings for expiry of statutory limitation Caltagirone District Court (R.G. 234/14) 23/10/2014
6.	30021/18 Lombardo v. Italy 14/06/2018	**Elda Giuseppa LOMBARDO** 1966 Partinico Italian	Antonio INGROIA Rome	Criminal complaint for unauthorised works on a building 03/01/2010 Palermo office of the prosecution Committal to trial of the accused Judge for preliminary investigations Palermo District Court (R.G. G.I.P. 593/10) 25/03/2014 Request to join the proceedings as civil party Date unknown Judgment Palermo District Court (R.G. 3433/14) 16/01/2015 Judgment discontinuing the proceedings for expiry of statutory limitation Palermo Court of Appeal (R.G. 2286/2015)

No.	Application no. Case name Introduction date	Applicant's name Year of birth Place of residence Nationality	Representative's name Location	Domestic proceedings
				26/01/2017 upheld by Judgment Cour de Cassation (R.G. 18026/2017) 15/12/2017
7.	30027/21 Martire v. Italy 01/06/2021	**Antonella MARTIRE** 1969 Rome Italian	Antonino BOSCO Rome	Criminal complaint for fraud 21/07/2003 Rome office of the prosecution Request to join the proceedings as civil party 15/02/2010 Committal to trial of the accused Judge for preliminary investigations Rome District Court 25/02/2010 Judgment discontinuing the proceedings for expiry of statutory limitation Rome District Court (R.G. 16022/10) 08/07/2014 upheld by Judgment Rome Court of Appeal (R.G. 14943/14) 08/01/2019 Judgment Court de Cassation (R.G. 29343/19) 02/12/2020
8.	21197/22 Sonaglia v. Italy 14/04/2022	**Daniele SONAGLIA** 1987 Montone Italian	Raffaello AGEA Umbertide	Criminal complaint for several offences, including fraud filed by third parties 20/08/2013 office of the prosecution Request to join the proceedings as civil party 18/10/2017 Committal to trial of the accused Judge for preliminary investigations Perugia District Court (R.G. G.I.P. 1969/2016) 18/10/2017 Judgment discontinuing the proceedings for expiry of statutory limitation Perugia District Court (R.G. 3045/18) 14/10/2021
9.	21256/22 Ferranti v. Italy 14/04/2022	**Mariano FERRANTI** 1974	Gabriele FAGIOLI Perugia	Criminal complaint for several offences, including fraud filed by third parties

No.	Application no. Case name Introduction date	Applicant's name Year of birth Place of residence Nationality	Representative's name Location	Domestic proceedings
		Perugia Italian		20/08/2013 office of the prosecution Request to join the proceedings as civil party 18/10/2017 Committal to trial of the accused Judge for preliminary investigations Perugia District Court (R.G. G.I.P. 1969/2016) 18/10/2017 Judgment discontinuing the proceedings for expiry of statutory limitation Perugia District Court (R.G. 3045/18) 14/10/2021