



Lawyers' claims over legal fees awarded after unnecessary fragmentation of proceedings rejected as an abuse of the right of application

In its decision in the case of [Ferrara and Others v. Italy](#) (application no. 2394/22 and 18 others) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The case concerned the failure of the State authorities to pay legal fees awarded to the applicants by “assignment orders” (*ordinanze di assegnazione*) – enforcement orders aimed at implementing decisions or judgments issued under Law no. 89 of 2001 (“the Pinto Act”, a remedy dealing with excessively long proceedings before the courts). The applicants are lawyers who were acting in this case as *avvocati antistatari* (lawyers who covered legal and other court fees for their clients and were directly awarded repayment by the courts).

The Court held that the multiple applications lodged by the applicants were an abuse of the right of application under Article 35 § 3 (a) (admissibility criteria) of the European Convention on Human Rights.

A legal summary of this case will be available in the Court’s database HUDOC ([link](#)).

Principal facts

The applicants, Alessandro Ferrara, Ferdinando Emilio Abbate, and Sara Di Molfetta, are Italian nationals who were born in 1973, 1961 and 1978 respectively. Mr Ferrara and Ms Di Molfetta live in Rome, and Mr Abbate lives in Orte (Italy). They are lawyers.

Background

An “assignment order” (*ordinanza di assegnazione*) is a type of enforcement order by which a court can order payment of a debt. The assignment orders referred to in the applications at hand aimed to enforce decisions or judgments issued under Law no. 89 of 2001 (“the Pinto Act”), which concern allegedly overlong court proceedings.

In Italy legal fees are awarded in respect of each assignment order, either to the party or directly to counsel. If the lawyers have covered fees for their client and an award is made for them to have those expenses and fees paid to them directly, the lawyers act as *avvocati antistatari*.

The case at hand

The applicants lodged separate sets of enforcement proceedings for each individual who was awarded a sum by the same “Pinto” decision or judgment, leading to the issuance of separate assignment orders. In some cases, the national courts joined separate sets of enforcement proceedings relating to the same “Pinto” decision, issued one assignment order and awarded legal fees only once.

Mr Ferrara and Mr Abbate acted as *avvocati antistatari* for several plaintiffs in numerous “Pinto” cases. Moreover, they lodged separate sets of enforcement proceedings for each individual who was awarded a sum by the same “Pinto” decision, leading to the issuance of separate assignment orders. As they sought an assignment order in respect of each plaintiff they were awarded multiple payments as *avvocati antistatari* in each set of enforcement proceedings. In some cases, Mr Ferrara acted as *avvocato antistatario* in separate sets of enforcement proceedings of the same “Pinto” decision, one in respect of the plaintiff, one in respect of himself as *avvocato antistatario* in the

“Pinto” proceedings. Consequently, he was awarded multiple payments in each set of enforcement proceedings. On some occasions, the domestic courts found that their conduct be an abuse of procedure.

In other cases Mr Abbate was awarded two sums as *avvocato antistatario* in “Pinto” judgments. Ms Di Molfetta represented him as *avvocato antistatario* in separate enforcement proceedings claiming two assignment orders (one for each sum). Therefore, Mr Abbate received separate assignment orders and Ms Di Molfetta received an award of fees in respect of each assignment order which was eventually delivered.

Complaints, procedure and composition of the Court

The applicants lodged a total of 19 applications with the European Court of Human Rights on various dates between 4 January and 27 May 2022.

Relying on Articles 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property), the applicants complained that because of the non-enforcement of assignment orders directly awarding them legal fees in legal proceedings, the State authorities had failed to pay them the money they had been due.

The decision was given by a Chamber of seven judges, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,
Péter **Paczolay** (Hungary),
Krzysztof **Wojtyczek** (Poland),
Lətif **Hüseynov** (Azerbaijan),
Ivana **Jelić** (Montenegro),
Gilberto **Felici** (San Marino),
Raffaele **Sabato** (Italy),

and also Renata **Degener**, *Section Registrar*.

Decision of the Court

The Court reiterated that under Article 35 of the Convention it was entitled to reject any “application [that was] ... an abuse of the right of individual application”. It defined abuse of application as “the harmful exercise of a right for purposes other than those for which it [was] designed”. It reiterated that such rules were important for the proper administration of justice and for legal certainty.

Concerning the case at hand, the Court noted that the applicants had operated two schemes in making claims before the Italian courts: firstly, applying for separate assignment orders depending on the number of individuals in whose favour the “Pinto” decision had been issued; secondly, applying for separate assignment orders depending on the number of sums to be paid to the same beneficiary in a “Pinto” judgment.

In general, unnecessary fragmentation of enforcement proceedings negatively affected the organisation and workload of domestic courts and inevitably extended the length of proceedings for parties. The Court held in this case that the actions of the applicants as regards enforcement had not been justified by the need to protect the interests of their clients or any of the rights set forth in the European Convention. It considered that the only reason for doing so must have been to multiply spuriously the award of legal fees. Under Italian law, such multiple claims of credit amounted to an abuse of procedure.

Furthermore, Mr Abbate and Ms Di Molfetta had lodged separate identical applications based on the same facts with the Court complaining of the non-enforcement of assignment orders aimed at

enforcing the exact same “Pinto” judgment. They had not even informed the Court of the links between those applications. In the case of Mr Ferrara, although his application with the Court had not presented those same issues, he had not explained the need for multiple applications before the domestic courts. Overall, the Court was satisfied that the three applicants had conducted themselves similarly before the Italian courts.

The Court held that the applications were an abuse of the right of individual application and therefore rejected them.

The decision is available only in English.

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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.