FOURTH SECTION

DECISION

Application no. 35519/04
Vittorio DELLA PIETRA
against Italy

The European Court of Human Rights (Fourth Section), sitting on 20 October 2015 as a Commitee composed of:

 Nona Tsotsoria, *President,* Paul Mahoney, Faris Vehabović, *judges,*and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 23 September 2004,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Vittorio Della Pietra, is an Italian national, who was born in 1954 and lived in Verona. He was represented before the Court by Mr A. Ferrara and Mr S. Ferrara, lawyers practising in Benevento.

The Italian Government (“the Government”) were represented by their Agent, Ms E. Spatafora, their former co-Agent, Mr N. Lettieri, and their co‑Agent, Ms P. Accardo.

On 19 June 2006 the applicant’s complaints under Article 1 of Protocol No.1 were communicated to the Government.

In a letter of 26 May 2015, the Registry requested the parties to provide an update on the status of the domestic proceedings.

In a letter of 23 June 2015, the applicant’s representatives informed the Court that no developments had occurred and urged the Court to proceed with the examination of the application.

In a letter of 26 June 2015, the Government informed the Court that the applicant had died on 19 March 2007. The Government submitted that the case should be struck out of the list on the ground that the applicant had died in 2007 and in the seven years the application was pending before the Court no heir had had expressed the wish to pursue it. The Government highlighted that the applicant’s representatives only acknowledged the applicant’s death in 2015, when they were invited to provide comments to the Government’s letter of 26 June 2015.

In a letter of 30 July 2015 the applicant’s representatives informed the Court that the applicant’s sister, Ms Maria Grazia Della Pietra, wished to pursue the application. They explained that in the applicant’s will that the applicant’s wife had been designated as the universal heir of the estate. Ms Maria Grazia Della Pietra, who had been excluded from the will, initiated inheritance proceedings in the Verona District Court contesting the validity of the will and seeking her recognition as an heir. The proceedings are currently pending before the domestic court and the next hearing is scheduled for 25 February 2016. No information was communicated as to the intention of the applicant’s wife to pursue the application.

THE LAW

The Court notes that in a number of cases in which an applicant died in the course of the proceedings before the Court it has taken into account the statements of the applicant’s heirs or of close relatives expressing the wish to pursue the application (see, among other authorities, *Deweer v. Belgium*, 27 February 1980, §§ 37-38, Series A no. 35; *Raimondo v. Italy*, 22 February 1994, § 2, Series A no. 281‑A; *Léger v. France* (striking out) [GC], no. 19324/02, § 43, 30 March 2009), or the existence of a legitimate interest claimed by a person wishing to pursue the application (see *Malhous v. the Czech Republic* (dec.) [GC], no. 33071/96, ECHR 2000‑XII).

On the other hand, it has been the Court’s practice to strike applications out of the list of cases in the absence of any heir or close relative who has expressed the wish to pursue an application and in the absence of any legitimate interest to pursue the application (see, among other authorities, *Scherer v. Switzerland*, 25 March 1994, § 31-32, Series A no. 287; *Thévenon v. France* (dec.), no. 2476/02, ECHR 2006‑III).

The Court observes that in the present case the request to pursue the application was submitted by a person who is not the applicant’s heir under national law and whose legitimate interest in having the application pursued before the Court has not been established. It is also noted that the applicant’s legal representatives did not inform the Court in good time of the applicant’s death.

In the light of the foregoing, in accordance with Article 37 § 1 (c) of the Convention, the Court considers that it is no longer justified to continue the examination of the application. Furthermore, in accordance with Article 37 § 1 in fine, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case. It however, reiterates that as provided for by Article 37 § 2, the Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course.

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

*Decides* to strike the application out of its list of cases.

Done in English and notified in writing on 12 November 2015.

 Fatoş Aracı Nona Tsotsoria
 Deputy Registrar President