FIRST SECTION

DECISION

Application no. 20035/07
Giuseppa AIELLO and Others
 against Italy

The European Court of Human Rights (First Section), sitting on 16 May 2019 as a Committee composed of:

 Aleš Pejchal, *President,* Jovan Ilievski, Gilberto Felici, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 4 May 2007,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended tables.

The applicants were represented by Mr Giuseppe Ferraro, a lawyer practising in Naples.

The applicants’ complaint under Article 6 of the Convention concerning the legislative interference pending judicial proceedings in Italy in respect of all the applicants listed in the appendices was communicated to the Italian Government (“the Government”).

THE LAW

The Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by this complaint with respect to the applicants listed in Appendix I. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The Government acknowledged the legislative interference pending judicial proceedings in respect of the applicants listed in Appendix I. They offered to pay these applicants the amounts detailed in Appendix I and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be payable within three months from the date of notification of the Court’s decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the case with respect to the applicants listed in Appendix I.

The applicants listed in Appendix I were sent the terms of the Government’s unilateral declaration on 25 October 2017. The Court has received a response from the applicants’ representative refusing the terms of the declaration.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

“... for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the case to be continued (see, in particular, *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75‑77, ECHR 2003-VI).

The Court has established clear and extensive case-law concerning complaints relating to the legislative interference pending judicial proceedings in Italy (see, for example, *Arras and Others v. Italy*, no. 17972/07, 14 February 2012; *Natale and Others v. Italy*, no. 19264/07, 15 October 2013; and *Casacchia and Others v. Italy*, nos. 23658/07 and 2 others, 15 October 2013).

Noting the admissions contained in the Government’s declaration as well as the amounts of compensation proposed – which are consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application with respect to the applicants listed in Appendix I (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application with respect to the applicants listed in Appendix I (Article 37 § 1 *in fine*).

Furthermore, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

As regards the applicants listed in Appendix II, the Court notes that they have died and that no heirs have come forward.

Accordingly, the Court considers that it is no longer justified to continue the examination of the application with respect to these applicants (Article 37 § 1 (c)).

In view of the above, it is appropriate to strike the case out of the list as regards the applicants concerned by the unilateral declaration as well as the deceased applicants (see Appendices I and II).

As regards the applicants listed in Appendix III, the Court notes that they did not provide the information requested when the case was communicated to demonstrate their victim status for the purposes of this complaint under the Convention.

Having regard to its findings, the Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, this complaint does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

*Takes note* of the terms of the respondent Government’s declaration in so far as they concern the applicants listed in Appendix I, and of the arrangements for ensuring compliance with the undertakings referred to therein;

*Decides* to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention with respect to the applicants listed in Appendices I and II;

*Declares* the application inadmissible as regards the applicants listed in Appendix III.

Done in English and notified in writing on 6 June 2019.

 Liv Tigerstedt Aleš Pejchal
 Acting Deputy Registrar President

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Application no.Date of introduction | Applicant’s nameDate of birth | Date of receipt of Government’s declaration | Date of receipt of applicant’s comments, if any | Amount awarded for pecuniary and non-pecuniary damage per applicantor household(in euros)[[1]](#footnote-1)  | Amount awarded for costs and expenses per application(in euros)[[2]](#footnote-2) |
| 20035/0704/05/2007 | **Luisa ANSELMO**09/07/1927**Tommaso BASTI**24/03/1923**Osvaldo BATTIMIELLO**06/11/1925**Romano BERGAMI**10/06/1936**Luigi BIANCO**24/09/1934**Sandra BOLDRER**17/03/1954**Maria BONICA**23/09/1924**Sergio BUTTÀ**21/02/1939**Renza CALLIARI**17/08/1955**Assunta CANTONE**08/09/1922**Antonio CARACCIOLO**29/01/1917**Antonietta CASAZZA**20/10/1928**Nicola CASCIELLO**13/10/1937**Rocco CASONE**22/03/1932**Wanda CATALINI**16/03/1947**Igino CATANZARITI**31/05/1938**Elisabetta CERESA**21/09/1946**Malio CHIARIELLO**06/07/1942**Antonio Donatello CHINICO’**22/10/1948**Caterina CINO**01/03/1948**Giuseppe COMPAGNONE**04/11/1931**Caterina COSCIA**28/11/1925**Eleonora COSENTINO**20/12/1952**Mario D’ALIA**25/07/1936**Aida D’APUZZO**09/04/1936**Maria DE FINA**07/04/1951**Bruno DE GREGORIIS**05/06/1926**Antonino DE GREGORIO**27/09/1939**Giovanna DE JATTA**20/07/1948**Ciro DE LUCA**07/04/1938**Carmela DE STEFANO**04/03/1947**Remo DI GIOVANNI**21/08/1922**Pasquale DI RAIMONDO**15/04/1935**Gustavo DI RUGGIERO**14/03/1940**Olmitella DI TARANTO**01/01/1932**Vittorio ELLERO**18/01/1938**Rosa ESPOSITO**04/11/1933**Mattia FAIELLA**06/02/1939**Silvia FILIPPI**15/08/1943**Angelo GALIMBERTI**01/11/1930**Giuseppe GAMBINO**18/11/1935**Diana Lucia GIANCANE**09/03/1944**Heirs of Giorgio** **BUONERBA**(died on 04/05/2008)Pia Boy08/03/1921Carla Buonerba03/02/1949Maurizio Antonio Buonerba09/07/1958**Heirs of Guido CALDARAZZO**(died on 14/07/2008)Fabrizio Caldarazzo26/06/1978Maria Roccocelli12/01/1933**Heirs of Luigi CARBONE**(died on 15/05/2009)Alfonso Carbone 03/09/1938Giorgio Carbone 29/07/1946Lucio Carbone 02/03/1940Paolo Carbone 22/07/1943 | 25/10/2017 | 30/01/2018 | 10,6004,3004,0007,8008,1004,30010,6006,2004,2004,4009,1008,1008,6006,3004,3004,9004,3005,0005,0004,3006,9008,0004,8006,3006,2004,3008,1007,0004,3005,2005,5006,2007,7005,8008,3006,1006,3004,8006,40010,7004,9004,3007,200 jointly to the heirs7,000 jointly to the heirs10,200 jointly to the heirs | 200 |

 **Name Date of birth – date of demise**

1. Giuseppa AIELLO 05/08/1928 - 25/12/2008
2. Paolo BOMBARDI 10/08/1939 - 05/11/2014
3. Franco BOLOGNA 15/03/1920 - 25/06/2012
4. Livio CALCINAI 21/11/1920 - 21/07/2012
5. Angelo CESARI 10/01/1919 - 03/05/2011
6. Rosa CIAMPITTI 14/03/1922 - 31/05/2010
7. Anna CIBELLI 14/09/1920 - 28/04/2008
8. Eduardo DE STASIO 08/09/1935 - 08/01/2009
9. Vincenzo DEL GRIPPO 20/03/1931 - 01/01/2014
10. Giancarlo DI IORIO 04/09/1940 - 17/11/2006
11. Mafalda GALANTE 04/12/1922 - 16/06/2011

**APPENDIX III**

 **Name Date of birth**

1. Maria Rosara AVETA 03/02/1935
2. Maria Antonietta BATTAGLINI 09/04/1937
3. Marisa BOSI 17/02/1932
4. Angela BOTTA 01/03/1938
5. Massimo BRANDIGI 08/05/1947
6. Stefano BRANDIGI 09/01/1952
7. Cabiria BRANDIMARTE 21/02/1921
8. Carlo CIAMARONE 18/06/1954
9. Paolo CIAMARONE 12/09/1950
10. Antonella COSTA 14/05/1963
11. Giuseppe COSTA 29/03/1958
12. Pierluigi COSTA 02/09/1964
13. Maria DE ROSE 10/12/1959
14. Ottavio DE ROSE 08/08/1964
15. Carmine DI GIGLIO 27/01/1967
16. Margherita DI GIGLIO 10/11/1959
17. Rosanna DI GIGLIO 23/03/1964
18. Claudio DI NOIA 17/05/1949
19. Maria Donata DI NOIA 06/03/1955
20. Massimo DI NOIA 12/02/1948
21. Raffaele DI NOIA 22/04/1952
22. Giorgia FALANGA 19/01/1963
23. Maria Grazia FENU 27/03/1939
24. Carlo GABRIELE 12/11/1962
25. Olimpia GABRIELE 25/08/1961
26. Rossana LANDI 01/01/1932
27. Amalia TAVEGGIA 10/04/1919
1. .  Plus any tax that may be chargeable. [↑](#footnote-ref-1)
2. .  Plus any tax that may be chargeable to the applicants. [↑](#footnote-ref-2)