FIRST SECTION

DECISION

Application no. 12784/10
Cira MOCCIA DELLO IOIO and Others against Italy
and 8 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 13 June 2023 as a Committee composed of:

 Péter Paczolay*, President*,
 Gilberto Felici,
 Raffaele Sabato*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications lodged on the various dates indicated in the appended tables,

the declaration submitted by the respondent Government on 30 January 2023 requesting the Court to strike the applications out of the list of cases and the applicants’ reply to that declaration,

Having deliberated, decides as follows:

1. FACTS AND PROCEDURE

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

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

3.  The Italian Government (“the Government”) were represented by their Agent, Mr L. D’Ascia.

4.  The applicants’ complaint under Article 6 of the Convention concerning the legislative interference pending judicial proceedings was communicated to the Government.

1. THE LAW

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

6.  The Court firstly takes note of the information regarding the death of certain applicants, indicated in Appendix I, and the wish of their heirs to continue the proceedings in their stead, as well as of the absence of an objection to that wish on the Government’s part. Therefore, the Court considers that the heirs indicated in Appendix I have standing to continue the proceedings in the late applicants’ stead.

7.  On 30 January 2023 the Government informed the Court that all of the applicants listed in Appendix II had died. The applicants’ representative did not contest that information and no heirs have come forward.

8.  Accordingly, the Court considers that it is no longer justified to continue the examination of the applications with respect to the applicants listed in Appendix II (Article 37 § 1 (c) of the Convention).

9.  As concerns the applicants listed in Appendix I, on 30 January 2023, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by these applicants. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

10.  The Government acknowledged the legislative interference pending judicial proceedings. They offered to pay these applicants the amounts detailed in Appendix I and invited the Court to strike the applications 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.

11.  The payment will constitute the final resolution of the case.

12.  The applicants were sent the terms of the Government’s unilateral declaration on 8 February 2023. On 20 February 2023, the Court received a response from the applicants’ representative refusing the terms of the declaration.

13.  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”.

14.  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).

15.  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).

16.  In the present case, the Court takes note of the applicants’ argument that, with regard to certain applicants, the amounts offered are based on a standardised determination of damages. Nevertheless, the Court also notes that only a limited number of applicants have provided individual calculations of the amounts claimed, whereas the remaining ones generically referred to the applicable criteria and claimed that they were unable to submit a precise calculation. The Court recalls that it is for the applicants to prove, as far as possible, not only the existence but also the amount of the damage. Although the Court accepts that a precise calculation of the sums due is not always possible (see, for example, *Kurić and Others v. Slovenia* (just satisfaction) [GC], no. 26828/06, §§ 87-90, ECHR 2014), in the present case it is not convinced by the applicants’ arguments. The existence of the criteria mentioned by the common representative, along with the fact that some of the applicants have provided detailed calculations, indicates that at least an estimate of damages was possible in the present case. In these circumstances, the Court considers that the amounts offered by the Government are consistent with those that the Court would have awarded, based on the criteria adopted in similar cases (see, for example, *Arras and Others*, cited above).

17.  Therefore, noting the admissions contained in the Government’s declaration, as well as the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of the applications relating to the concerned applicants (Article 37 § 1 (c)).

18.  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 applications with respect to the applicants concerned (Article 37 § 1 *in fine*).

19.  Furthermore, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the applications 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).

20.  In view of the above, it is appropriate to strike the applications out of the list of cases.

For these reasons, the Court, unanimously,

*Decides* to join the applications;

*Holds* that the heirs indicated in Appendix I have standing to pursue the proceedings in the stead of the deceased applicants;

*Takes note* of the death of the applicants listed in Appendix II and of the absence of any heirs wishing to pursue the proceedings before the Court in their stead;

*Takes note* of the terms of the respondent Government’s declaration concerning the remaining applicants (see Appendix I), and of the arrangements for ensuring compliance with the undertakings referred to therein;

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

Done in English and notified in writing on 6 July 2023.

 Liv Tigerstedt Péter Paczolay
 Deputy Registrar President

Appendix I

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| Application no.Case nameIntroduction date | Applicant’s nameYear of birth | Amount awarded for pecuniary and non-pecuniarydamage per applicant/household(in euros) | Amount awardedfor costs and expenses per applicant/household(in euros) |
| 12784/10Moccia Dello Ioio and Others v. Italy18/12/2009 | Household**Cira MOCCIA DELLO IOIO**1925**Filomena MOCCIA**1958**Federico MOCCIA**1961**Annamaria IMPROTA**1951**Silvana FUSARO**1934**Annabella MINETTI**1944**Griselda GUIDOTTI**1933**Angelo LEONI**1948Household**Fiorentina BIANCO**Born in 1920Deceased in 2016**Giovanni LESSONE**1948 (also as heir)**Loredana LESSONE**1950 (also as heir)**Giuseppa LESSONE**1953 (also as heir)**Anna LESSONE**1955 (also as heir)**Bruno LESSONE**1958 (also as heir) | 10,9004,0007,4004,3004,7004,7005,700 | 200200200200200200200 |
| 12786/10Spaziano and Others v. Italy20/01/2010 | Household**Elisabetta SPAZIANO**1925**Maurizio ROMANO**1949**Maria Grazia ROMANO**1962 | 7,900 | 200 |
| 12789/10Magosso and Others v. Italy11/01/2010 | Household**Palmira ROSSI**1924**Adino Cristiano MAGOSSO**1947**Massimo MAGOSSO**1950Household**Laura QUARANTA**1926**Paolo PALLADINO**1961**Anna CUOCO**1942 | 5,0005,50010,900 | 200200200 |
| 12790/10Mattu and Others v. Italy11/01/2010 | **Antonello MATTU**Born in 1921Deceased in 2015HeirsMaria Giovanna PIETRI1924Anna MATTU1961Angela MATTU1962**Maurizio BOLZONELLO**1943**Clara CARLON**1948Household**Maria Bruna TRIVELLATO**1932**Maria Antonietta LANCIA**1962**Alessandro LANCIA**1963**Guido SARTORI**1923 | 10,6005,3004,2004,4005,000 | 200200200200200 |
| 12791/10Carta and Others v. Italy11/01/2010 | **Leonardo Romano CARTA**1943**Alessio GUGLIELMI**1936**Vinicio CABRAS**1941Household**Vincenzina GAIAS**1924**Gabriella Elena Giovanna MORGHEN**1947**Giuseppe MORGHEN**1956**Goffredo MAMELI**Born in 1920Deceased in 2012HeirsLuciana MAMELI1950Maria Luisa MAMELI1956 | 4,0005,9005,5004,5007,900 | 200200200200200 |
| 12793/10Mainiero v. Italy11/01/2010 | **Liberato MAINIERO**1949 | 9,600 | 200 |
| 12794/10Nugnes and Others v. Italy11/01/2010 | Household**Costanza PALMIOTTI**1937**Sergio NUGNES**1967**Salvatore NUGNES**1971 | 4,000 | 200 |
| 12795/10Calavena and Others v. Italy11/01/2010 | **Antonio Raffaele CALAVENA**1943**Camillo CATALANO**1945**Ferdinando FIORE**1938**Carlo Aldo DI CATERINA**1949**Francesco BRUNI**1936Household**Angiola PESIRI**1946**Matilde DELL’ERARIO**1972**Nicola IRACE**Born in 1941Deceased in 2018HeirsLiberata NANNI1951Francesco IRACE1983Fabrizio IRACE1985**Giovanni FORNI**1943**Elisa Maria ELIA**1953Household**Lucia CASO**1944**Maria BARBATO**1969**Paola BARBATO**1974**Rosa FERRANTE**1948**Luca GALDO**1940**Vincenzo IEMMELLO**1936 | 40004,0004,0004,0004,0004,0004,0004.0004,0004,0004,0004,0004,000 | 200200200200200200200200200200200200200 |

**Appendix II**

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| Application no.Case nameIntroduction date | Applicant’s nameYear of birth | Deceased in |
| 12784/10Moccia Dello Ioio and Others v. Italy18/12/2009 | **Francesco LEONETTI**1929**Maria GRIMALDI**1937**Rosa GIARDULLI**1934 | 202220102014 |
| 12786/10Spaziano and Others v. Italy20/01/2010 | **Luigi PES**1936 | 2021 |
| 12790/10Mattu and Others v. Italy11/01/2010 | **Mario IEZZI**1921**Valerio RAGUSA**1938**Maria Luisa SORRENTINO**1946 | 202120212014 |
| 12791/10Carta and Others v. Italy11/01/2010 | **Maria Enrichetta FALCONI**1927 | 2022 |
| 12795/10Calavena and Others v. Italy11/01/2010 | **Arturo D’URSO**1936 | 2022 |
| 15290/10Conte v. Italy10/03/2010 | **Anna CONTE**1930 | 2021 |