FIRST SECTION

DECISION

Application no. 24735/16
Cecilia RULLO against Italy
and 29 other applications

(see appended table)

The European Court of Human Rights (First Section), sitting on 4 May 2023 as a Committee composed of:

 Alena Poláčková*, President*,
 Gilberto Felici,
 Raffaele Sabato*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

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

Having deliberated, decides as follows:

1. FACTS AND PROCEDURE

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

The applicants’ complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the application of retrospective legislation (Article 1 § 218 of Law no. 266/2005 of 23 December 2005) to pending national proceedings were communicated to the Italian Government (“the Government”).

1. THE LAW

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

The Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the violation of Article 6 § 1 of the Convention and that of Article 1 of Protocol No. 1.

With regard to the applicants C. Rullo, G. Annecchini, D. D’Antonio, S. Gargrella, M.C. Giacomucci, V.C. Di Marzio, D.O. Di Biase, P. D’Ippolito, A. Bronzo, R. Nardone, B.D. Marchegiano, G. D’Amico, A. Spaventa, M.P. Ricci, N. D’Andrea, E. Manzi, C.A. Merlo, P. Cecchetto, and M.L. Malin, the Government offered to pay them the amounts detailed in the appended table and invited the Court to strike their 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.

The payment will constitute the final resolution of these cases.

With regard to the applicants F. Romano, E. Campanella, L.M.L. Scaglione, E. Garato, L. Calore, F. Volpe, L. Brusco, P. Briatore, R. Barbiero, C. Bertani, C. Aonzo, A. Barabino, L. Bargnolo, M. Agamennone, L. Benini, S. Andrioli, A. Lavezzo, G. Tagliari, G. Tosi, A. Sontuoso, R. Fioratto, A. Vernizzi, R. Biancardi, C. Tumiatti, M. Toniolo, M.C. Enricio, C. Derni, P. Finesso, A.M. Ciatto (heir: Cecchinato), R. Passudetti, G. Sbrizza, R. Crivellaro, M. Toniolo, R. Zorzetto, A. Carpesio, G. Galliani, G. Agnolin, S. Benato, F. Meneghini, G. Tomanin, E. Contin, R. Bon, R. Campagnolo, O. Sartore, M. Ferronato and L. Cattozzo the Government offered not to proceed with the recovery of 40% of the sums paid to these applicants in execution of the first-instance judgments later reversed on appeal following the application of Article 1 § 218 of Law no. 266/2005 of 23 December 2005.

The Court also notes that the Government proposed to award each applicant 30 (thirty) euros (EUR) for costs and expenses.

The applicants were sent the terms of the Government’s unilateral declarations several weeks before the date of this decision. The Court has not received a response from the applicants accepting the terms of the declarations.

The Court firstly notes that there was no objection from the Government, and it also accepts, that the heir of Ms A.M. Ciatto (see attached table) has standing to continue the proceedings in the late applicant’s stead.

The Court further 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 cases to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75‑77, ECHR 2003-VI).

The Court has established clear and extensive case-law against Italy emphasising that the adoption of Law no. 266/2005 which definitively and retroactively settled the merits of the pending dispute between the applicants and the State and rendered futile any continuation of the proceedings was not justified by overriding reasons of general interest (see, for example, *Cicero and Others v. Italy*, nos. 29483/11 and 4 others, §§ 31-33, 30 January 2020; *De Rosa and Others v. Italy*, nos. 52888/08 and 13 others, §§ 48-54, 11 December 2012; and *Agrati and Others v. Italy*, nos. 43549/08, 6107/09 and 5087/09, §§ 59-66, 7 June 2011). When the Court found a violation of Article 6 § 1 of the Convention, it considered that the applicants had suffered a real loss of opportunity and that, consequently, the violations found were likely to have caused the applicants material damage. As to non-pecuniary damage, the Court considered that the finding of a violation constituted in itself just satisfaction for the non-pecuniary damage suffered by the applicants (see *De Rosa and Others*, cited above, §§ 60-62).

Noting the admissions contained in the Government’s declarations as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the applications (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 applications (Article 37 § 1 *in fine*).

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

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

For these reasons, the Court, unanimously,

*Decides* to join the applications;

*Finds* that the heir of the late applicant, Ms A.M. Ciatto, has standing to pursue the proceedings before the Court in her stead (for further details see the appended table);

*Takes note* of the terms of the respondent Government’s declarations and of the arrangements for ensuring compliance with the undertakings referred to therein;

*Decides* to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 25 May 2023.

 Viktoriya Maradudina Alena Poláčková
 Acting Deputy Registrar President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention

(legislative interference)

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Application no.Date of introduction | Applicant’s nameYear of birth | Representative’s name and location | Date of receipt of the Government’s declaration | Date of receipt of the applicant’s comments, if any | Amount awarded for pecuniary and non-pecuniary damage perapplicant(in euros)[[1]](#endnote-1)  | Amount awarded for costs and expenses per applicant(in euros)[[2]](#endnote-2) |
|  | 24735/1626/04/2016 | **Cecilia RULLO**1955  | Merlino ElisabettaLanciano | 31/01/2023 | 11/03/2023 | 6,288 | 30 |
|  | 24775/1626/04/2016 | **Giuseppe ANNECCHINI**1957  | 1,202.88 |
|  | 25743/1630/04/2016 | **Donato D’ANTONIO**1951  | 4,767.22 |
|  | 25750/1630/04/2016 | **Sergio GARGRELLA**1951  | 752.48 |
|  | 25753/1630/04/2016 | **Maria Cristina GIACOMUCCI**1960  | 8,740.26 |
|  | 25956/1603/05/2016 | **Franca ROMANO**1960  | - |
|  | 29770/1619/05/2016 | **Velia Cristina DI MARZIO**1947  | 5,966.66 |
|  | 44720/1814/09/2018 | **Donato Ottavio DI BIASE**1938  | 2,473.29 |
|  | 44724/1814/09/2018 | **Pina D’IPPOLITO**1961  | 6,094.42 |
|  | 44726/1814/09/2018 | **Alessandro BRONZO**1961  | 4,636.77 |
|  | 45910/1826/09/2018 | **Rosanna NARDONE**1952  | 3,934.14 |
|  | 45913/1814/09/2018 | **Biagio Donato MARCHEGIANO**1952  | 752.48 |
|  | 24043/1924/04/2019 | **Gabriella D’AMICO**1945  | Salvatore GabrieleChieti | 06/03/2023 | 10,652.06 |
|  | 24793/1902/05/2019 | **Elvira CAMPANELLA**1952  | - |
|  | 25208/1929/04/2019 | **Antonina SPAVENTA**1943  | 16,916.29 |
|  | 25216/1929/04/2019 | **Maria Pia RICCI**1958  | 5,061.34 |
|  | 27807/1916/05/2019 | **Leda Maria Loredana SCAGLIONE**1949  | - |
|  | 27988/1916/05/2019 | **Nicola D’ANDREA**1954  | 11,400.14 |
|  | 27990/1916/05/2019 | **Enio MANZI**1948 | 6,535.43 |
|  | 30650/1929/05/2019(21 applicants) | **Matteo TONIOLO**1982 | Zampieri NicolaSchio | 10/03/2023 | - |
| **Maria Cristina ENRICIO**1966 | - |
| **Carlo DERNI**1944 | - |
| **Paolo FINESSO**1957 | - |
| **Anna Maria CIATTO**1953Deceased in 2021Heir:**Nedda CECCHINATO**1979 | - |
| **Raffaella PASSUDETTI**1968 | - |
| **Gianni SBRIZZA**1967 | - |
| **Rosanna CRIVELLARO**1948 | - |
| **Marco TONIOLO**1974 | - |
| **Renato ZORZETTO**1965 | - |
| **Angela CARPESIO**1968 | - |
| **Giulio GALLANI**1954 | - |
| **Giorgio AGNOLIN**1956 | - |
| **Sandro BENATO**1959 | - |
| **Francesco MENEGHINI**1956 | - |
| **Giampaolo TOMANIN**1957 | - |
| **Enrico CONTIN**1959 | - |
| **Renato BON**1945 | - |
| **Renato CAMPAGNOLO**1951 | - |
| **Orfeo SARTORE**1954 | - |
| **Maria FERRONATO**1955 | - |
|  | 23252/2123/04/2021 | **Liliana CATTOZZO**1950  | - |
|  | 52069/2130/09/2021 | **Maria Luisa MALIN**1951  | 2,688.5 |
|  | 42368/1926/07/2019(3 applicants) | **Emanuela GARATO**1959  | Romano GiovanniBénévent | 13/03/2023 | - |
| **Patrizia CECCHETTO**1960 | 9,242.4 |
| **Carlo Alberto MERLO**1954 | 34,980.79 |
|  | 42374/1926/07/2019 | **Fabio VOLPE**1946  | - |
| **Carla TUMIATTI**1958 | - |
|  | 42376/1926/07/2019 | **Lores BRUSCO**1954  | - |
|  | 42489/1926/07/2019(5 applicants) | **Livio BENINI**1953  | - |
| **Sabrina ANDRIOLI**1971 | - |
| **Aida LAVEZZO**1947 | - |
| **Giuseppe TAGLIARI**1958 | - |
| **Gianpaolo TOSI**1964 | - |
|  | 43936/1926/07/2019(3 applicants) | **Alessandro SONTUOSO**1963  | - |
| **Riccardo FIORATTO**1965 | - |
| **Adamo VERNIZZI**1948 | - |
|  | 43667/1907/08/2019 | **Lello CALORE**1944 | Sullam IsaccoMilan | 13/03/2023 | - |
|  | 43703/1907/08/2019(7 applicants) | **Piero BRIATORE**1950  | - |
| **Rodolfo BARBIERO**1949 | - |
| **Carlo BERTANI**1951 | - |
| **Claudio AONZO**1942 | - |
| **Adolfo BARABINO**1946 | - |
| **Luisa BARGNOLO**1960 | - |
| **Maurizio AGAMENNONE**1954 | - |
|  | 47248/1902/09/2019 | **Roberto BIANCARDI**1946  | Biancardi SerenaEste | 13/03/2023 | - |

1. Plus any tax that may be chargeable to the applicants [↑](#endnote-ref-1)
2. Plus any tax that may be chargeable to the applicants [↑](#endnote-ref-2)