



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

## FIRST SECTION

### DECISION

Application no. 13015/20  
Karima ZEMZAMI  
against Italy

The European Court of Human Rights (First Section), sitting on 28 March 2023 as a Committee composed of:

Péter Paczolay, *President*,

Gilberto Felici,

Raffaele Sabato, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to the above application lodged on 2 March 2020,

Having regard to the declaration submitted by the respondent Government on 17 March 2022 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

### FACTS AND PROCEDURE

1. The applicant, Ms Karima Zenzami, is a Moroccan national, who was born in 1988 and lives in Urbania. She was represented before the Court by Ms A. Mascia, Ms F. D'Aprile and Mr F. D'Anselmo, lawyers practising in Verona and Ferrara.

2. The Italian Government ("the Government") were represented by their Agent, Mr L. D'Ascia, State Attorney.

3. The applicant's complaints under Article 2, in both its substantive and procedural limbs, and Article 3 of the Convention were communicated to the Government.

### THE LAW

4. The applicant complained that the authorities had failed to take measures to protect the life of her brother, Mr Anas Zenzami, who committed suicide while in detention, and that the ensuing investigation had been

ineffective. She further complained that her brother had not been provided with adequate medical treatment in detention. She relied on Articles 2 and 3 of the Convention.

5. After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by these complaints.

6. The Government acknowledged that the domestic authorities had violated the applicant's rights under the articles complained of. They offered to pay the applicant 32,000 euros (EUR) to cover non-pecuniary damage and EUR 1,000 to cover costs and expenses, plus any tax that may be chargeable, 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.

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

8. The applicant was sent the terms of the Government's unilateral declaration on 17 March 2022. On 19 April 2022 the Court received a response from her lawyer in which she stated that the applicant was not satisfied with the terms of the unilateral declaration. The applicant submitted that the Government's declaration was drafted in a generic manner, without referring to the facts of the case or mentioning specific violations. In particular, she highlighted that the Government did not specify that the authorities had been aware of a real and immediate risk to her brother's life and did not undertake to conduct an investigation in compliance with the principles established by the Court. She further contended that the Government made erroneous references to the existence of a structural problem which, in her view, were unrelated to the case under scrutiny. Moreover, she highlighted that there was only one case against Italy concerning suicide in detention, *Citraro and Molino v. Italy* [Committee], no. 50988/13, 4 June 2020. In view of the foregoing considerations, the applicant requested the Court not to accept the unilateral declaration and to continue the examination of the case.

9. 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”.

10. 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).

11. The Court has established in a number of cases, including one brought against Italy, its practice concerning the positive obligations under Article 2 to protect an individual from self-harm in detention (see, for example, *Keenan v. the United Kingdom*, no. 27229/95, § 90, ECHR 2001-III; *Trubnikov v. Russia*, no. 49790/99, 5 July 2005; *Renolde v. France*, no. 5608/05, ECHR 2008 (extracts); *Ketreb v. France*, no. 38447/09, 19 July 2012; *Volk v. Slovenia*, no. 62120/09, 13 December 2012; *Mitić v. Serbia*, no. 31963/08, 22 January 2013; *Isenc v. France*, no. 58828/13, 4 February 2016; *S.F. v. Switzerland*, no. 23405/16, § 98, 30 June 2020; and *Citraro and Molino*, cited above). The Court has also established its practice concerning the procedural obligation under Article 2 of the Convention to carry out an effective investigation into the circumstances surrounding the death of a detainee (see, among many other authorities, *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, ECHR 2002-II; *Slimani v. France*, no. 57671/00, 17 October 2013; and *Volk*, cited above). Moreover, the Court has established its practice, in connection with Article 3 of the Convention, regarding the treatment of mental health issues suffered by detainees (see, for example, *Slawomir Musiał v. Poland*, no. 28300/06, 20 January 2009; *Rivière v. France*, no. 33834/03, 11 July 2006; *Rooman v. Belgium* [GC], no. 18052/11, 31 January 2019; and *Jeanty v. Belgium*, no. 82284/17, 31 March 2020). It follows that the complaints raised in the present application are based on clear and extensive case-law of the Court.

12. Turning to the applicant's objections to the acceptance of the declaration, while the Court acknowledges that there are no details in the text of the declaration concerning the specific circumstances of the case, and that some references have been made to a structural problem that appears to be unrelated to the present case, the fact remains that the Government have acknowledged that the domestic authorities had violated the applicant's rights under the articles complained of.

13. In conclusion, noting the admissions contained in the Government's declaration as well as the amount of compensation proposed, and in view of the foregoing considerations, the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

14. In the light of the above, and in particular given the clear and extensive case-law on the topic, 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 (Article 37 § 1 *in fine*). In this connection, the Court also points out that the decision in question is without prejudice to the Government's obligation to conduct an investigation in compliance with the requirements of the Convention in view of their acknowledgement of the violation of the applicant's rights (see *Zarkovic and Others v. Croatia* (dec.), no. 75187/12, 9 June 2015; *Khalil v. Azerbaijan*

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(dec.), nos. 60659/08 and 2 others, § 91, 6 October 2015; and *Jabbarov and Others v. Azerbaijan* (dec.) [Committee], nos. 61239/17 and 7 others, § 18, 17 January 2023).

15. Finally, 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).

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

For these reasons, the Court, unanimously,

*Takes note* of the terms of the respondent Government's declaration 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.

Done in English and notified in writing on 20 April 2023.

Liv Tigerstedt  
Deputy Registrar

Péter Paczolay  
President