FIRST SECTION

DECISION

Application no. 27952/16  
Patrizia AMOROSO and Others  
against Italy

(see appended table)

The European Court of Human Rights (First Section), sitting on 24 November 2022 as a Committee composed of:

Krzysztof Wojtyczek*, President*,  
 Ivana Jelić,  
 Erik Wennerström*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 10 May 2016,

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:

1. FACTS AND PROCEDURE

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

The applicants were represented by Mr G. Romano, a lawyer practising in Rome.

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

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

The Government acknowledged the violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. They offered to pay the applicants the amounts detailed in the appended table 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.

The Court also notes that the Government proposed to award 150 euros to each of the applicants in compensation of costs and expenses.

The applicants were sent the terms of the Government’s unilateral declaration several weeks before the date of this decision. The Court has not received a response from the applicants accepting 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, 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*, no. 29483/11 and 4 others, §§ 31-33, 30 January 2020; *De Rosa and Others v. Italy*, no. 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 sufficient 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 declaration as well as the amount of compensation, including that for costs and expenses, 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 application (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 (Article 37 § 1 *in fine*).

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 (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

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 15 December 2022.

Viktoriya Maradudina Krzysztof Wojtyczek  
 Acting Deputy Registrar President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1

(Legislative interference)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Application no. Date of introduction | Applicant’s name  Year of birth | Date of receipt of Government’s declaration | Date of receipt of applicant’s comments, if any | Amount awarded for pecuniary damage per applicant  (in euros)[[1]](#endnote-1) | Amount awarded for costs and expenses per applicant  (in euros)[[2]](#endnote-2) |
| 27952/16  10/05/2016  (13 applicants) | **Patrizia AMOROSO**  1951 | 01/08/2022 | - | 1,213.07 | 150 |
| **Sonia GATTI**  1960 | 8,426.71 |
| **Sandra ROSSIT**  1959 | 753.57 |
| **Emiliana TOMMEI**  1948 | 6,319.74 |
| **Gabriela LATOCHA**  1958 | 4,675.24 |
| **Ermida ODORICO**  1955 | 11,606.34 |
| **Rosella GNESUTTA**  1959 | 222.91 |
| **Manuela MENEGUZZI**  1964 | 10,560.80 |
| **Laura DEL ZOTTO**  1962 | 1,599.16 |
| **Gelsomina VITALE**  1947 | 225.62 |
| **Daniele PIOVESANA**  1957 | 1,571.22 |
| **Rita MAIORINO**  1944 | 8,920.68 |
| **Graziella PELLEGRINON**  1950 | 3,394.38 |

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)