FIRST SECTION

DECISION

Application no. 4872/21
Giovanni DE PAULI and Others
against Italy

(see appended table)

The European Court of Human Rights (First Section), sitting on 20 October 2022 as a Committee composed of:

 Krzysztof Wojtyczek*, President*,
 Erik Wennerström,
 Lorraine Schembri Orland*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 12 January 2021,

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. Di Noia, a lawyer practising in Bari.

The applicants’ complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement or delayed enforcement of domestic decisions 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 non-enforcement or delayed enforcement of domestic decisions. They offered to pay the applicants the amounts detailed in the declaration 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 declaration read as follows:

“The Italian Government recognize that the claimants were subjected to the violation of Article 6 § 1 of the Convention and Article 1 of the Protocol no. 1, because of the non-enforcement or delayed enforcement of domestic decisions, in accordance with the principles enucleated by the European Court of Human Rights on the matter.

The Italian Government, with this declaration, offers the sum of € 200,00 to each claimant (as indicated in the table appended at the end), as compensation for moral damages, and € 30,00 for the legal expenses before the Court, plus the additional compensation, with legal interests, eventually still due according to Law no. 89/2001.

The Governments believe that this declaration, containing the acknowledgement of the abovementioned violations and the provision of a refund, represents an adequate compensation for the claimants, according to the jurisprudence of the Court on the matter.

....

The Government will proceed to pay the sums offered with the present declaration within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. In the event of failure to pay these sums within the said three-month period, the Government undertake to pay simple interest on them, from 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 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 concerning complaints relating to the non-enforcement or delayed enforcement of domestic decisions (see, for example, *Gaglione and Others v. Italy,* nos. 45867/07 and others, 21 December 2010, and *Gagliano Giorgi v. Italy,* no. 23563/07, 6 March 2012).

Noting the admissions contained in the Government’s declaration 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 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 10 November 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

(non-enforcement or delayed enforcement of domestic decisions)

|  |  |  |
| --- | --- | --- |
| Application no.Date of introduction | Applicant’s nameYear of birth | Date of receipt of Government’s declaration |
| 4872/2112/01/2021 | **Giovanni DE PAULI**1959**Marcello EPIFANI**1963**Giovanni CARAFA**1960**Dario SERRA**1960**Roberto NUZZO**1965**Roberto ELIA**1967**Donato SEMERARO**1966**Oronzo SCRASCIA**1962**Lorenzo CIRICI**1960**Donato LECCESE**1969**Luigi CAPONE**1968 | 29/09/2021 |