FIRST SECTION

DECISION

Application no. 32590/07  
Donatella DE STASIO and Others against Italy  
and 10 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 19 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 19 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 19 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 24 January 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

|  |  |  |  |
| --- | --- | --- | --- |
| Application no. Case name  Introduction date | Applicant’s name Year of birth | Amount awarded for pecuniary and non-pecuniary damage per applicant/household  (in euros) | Amount awarded for costs and expenses per applicant/household  (in euros) |
| 32590/07 De Stasio and Others v. Italy 26/07/2007 | **Donatella DE STASIO** 1975  **Giuseppe PETROSILLO** 1937  Household **Fernanda DE GREGORIO** 1931 **Luisella MASCIOLI** 1957 **Davide MASCIOLI** 1982 **Marta MASCIOLI** 1985 | 4,400  6,000  4,600 | 200  200  200 |
| 12769/10 De Divitiis and Others v. Italy 18/12/2009 | Household  **Maria Antonietta IMPERIO** Born in 1933  Deceased in 2013 **Francesco DE MATTIA** 1959 (also as heir) **Antonio DE MATTIA** 1961 (also as heir) **Alfonso Maria DE MATTIA**  1965 (also as heir)  **Adriana MAGGIA** 1934  **Marino BALZERANO** 1950  **Vittorio VEGLIANTE** 1937  **Alberto DE MARCO** 1913  **Vito Vittorio CARIGNANI** 1943  **Michele ANGELILLIS** 1929 | 8,400  4,000  4,200  6,800  4,000  5,300  4,000 | 200  200  200  200  200  200  200 |
| 12770/10 Damiano and Others v. Italy 18/12/2009 | **Liliana DAMIANO** 1951  Household  **Maria Ludovica D’ANCHINO** 1948 **Donatella D’ANCHINO** 1957 **Annalisa D’ANCHINO** 1955  **Franco BENAZZO** Born in 1931  Deceased in 2015  Heirs  Nella PRIANO  1935  Michela BENAZZO  1969  **Alessandro DI SALVIA** Born in 1940  Deceased in 2011  Heirs  Grazia ZAMBELLI  1938  Antonio Pio Giovanni DI SALVIA  1969  Angelo DI SALVIA 1979  **Maria Antonietta CAPACCHIONE** 1950  **Franco DE BORTOLI** 1942 | 4,900  8,700  4,300  6,600  4,200  6,700 | 200  200  200  200  200  200 |
| 12771/10 Acquisgrana and Others v. Italy 18/12/2009 | **Domenico ACQUISGRANA** 1932  **Carmela Silvana ANCORA** 1944  **Elisabetta CELENTANO** Born in 1920  Deceased in 2010  Heirs  Annamaria CUOMO  1947  Gilberto CUOMO  1952  Donatella CUOMO  1956  Lanfranco CUOMO  1962 **Umberto PORPORA** 1930  **Carla VITAGLIANO STENDARDO** 1950  **Domenico GABRIELE** Born in 1933  Deceased in 2018  Heirs  Vincenza FALCONE  1946  Tommaso GABRIELE  1965  Corrado GABRIELE  1966  Alessandra GABRIELE  1974  Household **Maria AVERSA** 1927  **Antonio TALEVI** 1952 **Francesco TALEVI** 1958  **Egidio VERGINE** 1930  **Mauro BALDI** 1940  **Vito DE NITTO** 1947  **Checchina Santa SCARDINO** 1923  **Lidia MACCHIA** Born in 1925  Deceased in 2011  Heir  Rocco Roberto BRAY  1952  Household  **Aida DE SOCIO** Born in 1919  Deceased in2013 **Silvia DI STEFANO** 1953 (also as heir) **Annamaria DI STEFANO** 1960 (also as heir) | 4,000  4,000  4,000  4,000  4,000  4,000  4,000  4,000  4,000  4,000  4,000  4,000  4,000 | 200  200  200  200  200  200  200  200  200  200  200  200  200 |
| 12773/10 Mosca and Others v. Italy 18/12/2009 | **Giulio MOSCA** 1936  **Liliana SCARAIA** 1941  **Domenico SIMONELLI** 1936  **Silvano DUGGENTO** 1943  **Vito MODUGNO** 1939 | 8,000  8,900  7,100  7,200  6,500 | 200  200  200  200  200 |
| 12774/10 Tiso and Others v. Italy 18/12/2009 | **Umberto TISO** 1940  Household **Gaetano VOLLARO** 1951 **Antonio VOLLARO** 1950 | 6,800  4,000 | 200  200 |
| 12775/10 Zeccardo and Others v. Italy 18/12/2009 | **Quirino ZECCARDO** Born 1923  Deceased in 2015  Heir  Michele ZECCARDO  1955  **Ugo REPETTO** 1948  **Francesco Saverio RENDINA** 1941 | 5,500  4,400  6,900 | 200  200  200 |
| 12778/10 Picarelli and Others v. Italy 18/12/2009 | **Manlio PISTOLESI** 1933  **Antonio RUSSO** 1935  Household **Italo RUSSO** 1951  **Ludovico RUSSO** 1948 | 7,800  8,100  7,900 | 200  200  200 |
| 12780/10 Pisano and Others v. Italy 18/12/2009 | **Pier Luigi PISANO** 1943  **Maria SANTONI** 1948  **Aldo PUGNO** 1938  **Girolamo PULINO** Born in 1925  Deceased in 2011  Heirs  Rita SPINELLI  1935  Adele PULINO  1960  Alessandra PULINO  1964  Vincenzo PULINO  1970  **Erasmo NOCELLA** 1940 **Carlo MARTUCCI** 1939  **Lucia DI PAOLANTONIO** 1950  **Roberto CARUSO** 1938  **Clelia BELLONE** 1953  **Gennaro SPEZZAFERRO** 1939  **Vittorio LUPOLI** 1940  **Anna SGRO’** Born in 1923  Deceased in 2013  Heir  Rita SGRO’  1954 | 6,200  4,700  4,400  8,300  7,000  4,000  4,300  7,100  4,000  13,200  15,300  7,800 | 200  200  200  200  200  200  200  200  200  200  200  200 |
| 12781/10 Pescatori and Others v. Italy 18/12/2009 | **Gaetano PESCATORI** 1938  Household **Eduardo PESCE** 1959 **Alessandra PESCE** 1964  **Annuziata DI LUCCI** 1947  **Francesco VASCETTA** 1943  Household **Gabriella OLIVA** 1938 **Giacomo OLIVA** 1941 **Giorgio OLIVA** 1943  **Giovanni SASSO** Born in 1949  Deceased in 2019  Heir  Maria SASSO  1939  **Massimino PERILLI** 1932  **Giuseppe SABATINI** Born in 1928  Deceased in 2019  Heirs  Salvatore SABATINI  1951  Enrica SABATINI  1958  Monica SABATINI  1961  **Carlo GIACHERY** 1925  **Armando IANNETTA** 1937  **Aldo OTTONELLI** Born in 1933  Deceased in 2015  Heirs  Clara SANFRATELLO  1939  Valeria OTTONELLI  1968  Luca OTTONELLI  1969  **Lorenzo INGLESE** Born in 1924  Deceased in 2018  Heirs  Gemma Marina DE MAIO  1930  Roberto INGLESE  1954  Riccardo INGLESE  1958  **Giovanni Giuseppe VERRENGIA** 1945  **Antonio POMPILIO** Born in 1920  Deceased in 2010  Heir  Maria Filomena MONDELLI  1935  **Giuseppe TARTAGLIONE** Born in 1938  Deceased in 2021  Heirs  Tommasina MAZZA  1939  Luigi TARTAGLIONE  1963  Iolanda TARTAGLIONE  1965  Rosa TARTAGLIONE  1966  **Luciano MUCCIANTE** Born in 1926  Deceased in 2015  Heir  Tiziana MUCCIANTE  1961  **Maria UMMARINO** 1947  Household  **Chiara Irene NOCERINO** 1941  **Maria NOCERINO** 1946  **Luigi Rosario Mauro NOCERINO** Born in 1949  Deceased in 2017  Heirs  Santa FORMISANO  1939  Rita Maria NOCERINO  1971  Salvatore  NOCERINO  1974  Household  **Giancarla TORRIGLIA** 1941  **Sara SAMPELLEGRINI** 1963 **Marco SAMPELLEGRINI** 1967    **Emilio GRASSO** 1947  **Agata GENNARO** 1932  Household **Agata GENNARO** 1932  **Concetta LABATE** 1958 **Demetrio LABATE** 1961 **Antonino LABATE** 1966 **Santina LABATE** 1967Household **Umberto SCALA** 1949 **Vincenzo SCALA** 1954 **Maurizio SCALA** 1959 | 8,000  10,900  5,100  6,700  6,100  4,600  8,200  4,500  14,300  8,100  9,400  8,800  6,000  9,900  7,400  9,400  4,100  4,100  8,300  5,500  4,000  10,100  4,000 | 200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200  200 |

APPENDIX II

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| Application no. Case name | Applicant’s name Year of birth | Deceased in |
| 32590/07 De Stasio and Others v. Italy 26/07/2007 | **Massimo RUSSO** 1934 | 2020 |
| 12769/10 De Divitiis and Others v. Italy 18/12/2009 | **Gaetano DE DIVITIIS** 1936  **Giuseppina RIOTTA** 1927  **Piero GUERRINI** 1949 | 2019  2020  2011 |
| 12770/10 Damiano and Others v. Italy 18/12/2009 | **Anna DE GIORGIO** 1920  **Mario DEL PIZZO** 1937 | 2022  2019 |
| 12771/10 Acquisgrana and Others v. Italy 18/12/2009 | **Oscar GIULIANI** 1925  **Umberto GARZONIO** 1923  **Giovanni TRITAPEPE** 1924  **Angiola Maria TOSANOTTI** 1925  **Mario GAMBARDELLA** 1924 | 2014  2020  2022  2010  2022 |
| 12774/10 Tiso and Others v. Italy 18/12/2009 | **Miranda PAOLETTI** 1923 | 2022 |
| 12776/10 Filantropo and Others v. Italy 18/12/2009 | **Anna FILANTROPO** 1912  **Teresa Maria NICOLO** 1943 | 2010  2011 |
| 12778/10 Picarelli and Others v. Italy 18/12/2009 | **Maria Elisa PICARELLI** 1925 | 2015 |
| 12780/10 Pisano and Others v. Italy 18/12/2009 | **Gina CARDILLI** 1929  **Vincenza MAFFIONE** 1922  **Aldo GUIDA** 1937  **Rosaria DONATI** 1940 | 2019  2020  2022  2017 |
| 12781/10 Pescatori and Others v. Italy 18/12/2009 | **Elio GIARDINA** 1934  **Marina GRIMALDI** 1954  **Luigi IMPERATO** 1932 | 2021  2021  2021 |