



## [ECtHR - Dabetić v. Italy](#)

This case concerns the initial refusal of the Italian authorities to recognise the applicant, a stateless person of Slovenian origin, as stateless. He complained this refusal resulted in him being unable to regularise his stay in Italy and constitutes a breach of Article 8 of the ECHR. The applicant also complained under Article 14 of the ECHR, citing discrimination in access to Italian nationality and under Article 13 due to the lack of an effective domestic remedy. The Court declared his application inadmissible, as it found that the applicant was no longer a victim of a violation because, after the application was submitted, an Italian court recognised his statelessness status in 2013.

**Case name (in original language) :** Dabetić v. Italy

**Case status:** Decided

**Case number:** 31149/12

**Citation:** European Court of Human Rights, Dabetić v. Italy ( dec.), no. 31149/12, 18 October 2022

**Date of decision:** 18/10/2022

**State:** Italy

**Court / UN Treaty Body:** European Court of Human Rights

**Language(s) the decision is available in:** English, French

**Applicant's country of residence:** Italy

**Legal instruments:** European Convention on Human Rights (ECHR)

**Key aspects:** Respect for private and family life, Statelessness determination

**Relevant Legislative Provisions:**

- Article 8 of the European Convention on Human Rights
- Article 13 of the European Convention on Human Rights
- Article 14 of the European Convention on Human Rights
- Article 34 of the European Convention on Human Rights

**Facts**

The applicant is of Slovenian origin and became stateless following the dissolution of the former Yugoslavia. He has been residing in Italy since 1989. In 2006, after his passport expired, he applied for the determination of his statelessness before the Ministry of Interior and requested a temporary residency permit. Both requests were rejected because Italian law required pre-existing legal residency in order to grant these requests, which the applicant did not have. During this time, the applicant was unable to obtain any form of temporary residence status. He had been subject to criminal prosecution and punishment due to his presence in Italy and had been arrested multiple times and been subject to identity checks and deportation orders. The applicant was unable to work, travel, or obtain any benefit or service aside from emergency health care. In 2011, the applicant filed an application for determination of his statelessness with the Tribunal of Rome and he was recognised as stateless in 2013. With the assistance of [Open Society Justice Initiative](#), he brought proceedings before the European Court of Human Rights in 2012, claiming that Italy had violated his right to respect for private and family life (Article 8 ECHR) as it was impossible for him to regularise his status. The applicant also complained under Article 14 of the ECHR, citing discrimination in access to Italian nationality and under Article 13, citing a lack of an effective domestic remedy.

### **Legal arguments by the applicant**

The applicant alleged that it was impossible for him to regularise his situation as a stateless person for a long time, in violation of Article 8 ECHR. Under Article 14, the applicant argued that the criteria applicable to the different categories of people in order to access a temporary residence permit discriminated between stateless persons and asylum seekers or foreign nationals. Under Article 13, the applicant argued that he had no domestic remedy at his disposal for his complaints under Articles 8 and 14 of the ECHR. The applicant maintained that he still retained victim status for the purposes of Article 34 as no compensatory measures had been applied in this case.

### **Legal arguments by the opposing party**

The Government submitted that the applicant had lost his victim status following the decision to recognise him as stateless. They also argued that the applicant had failed to exhaust domestic remedies as, at the time of lodging this case before the Court, the internal proceedings before the Tribunal of Rome were pending. They also commented that he had failed to appeal the interim decision of this tribunal.

## Decision & Reasoning

The Court considered that it was not necessary to address the Government's objection of non-exhaustion of domestic remedies, as the application was inadmissible in any event, for the following reasons.

Referring to the case of [Kuric and Others v. Slovenia](#), the Court observed that in the present case the Tribunal of Rome has recognised the applicant's status of a stateless person in 2013. The Court noted that in several cases concerning the regularisation of the status of foreigners, the Court has held that applicants were no longer victims of alleged violations after the issuing of a permit and has declared their applications inadmissible or found that regularisation arrangements made constituted an adequate and sufficient remedy for Article 8 complaints. Furthermore, the fact that the applicants were no longer at risk of deportation has also been taken into account by the Court, for example, in [Sisojeva and Others v. Latvia](#), [Shevanova v. Latvia](#) and [Kaftailova v. Latvia](#)

The Court stated that it saw no reason to depart from these conclusions in this current case and so the applicant can no longer claim to be a victim within the meaning of Article 34.

## Decision documents

[DABETIĆ v. ITALY.pdf](#)

### Outcome

The application was declared inadmissible.

## Links to other relevant materials related to the case (blogs, analysis, articles, reports, etc.)

ENS news, [ECtHR declares application inadmissible in Dabetić v. Italy because the applicant was recognised as stateless](#) (November 2022)

ENS news, [ENS and AIRE Centre intervene before the ECtHR on Dabetić v. Italy](#) (January 2022)

## Caselaw cited

- [Kurić and Others v. Slovenia](#) ([GC], no. [26828/06](#))
- [Sisojeva and Others v. Latvia](#) (striking out) [GC], no. [60654/00](#)
- [Shevanova v. Latvia](#) (striking out) [GC], no. [58822/00](#)

- *Kaftailova v. Latvia* (striking out) [GC], no. [59643/00](#)

### **Third party interventions**

The AIRE Centre and the European Network on Statelessness submitted a third-party intervention. The submission analyses Contracting States' obligations under Articles 8 (right to respect for private and family life), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination), and also invites the Court to consider key provisions of the 1954 Convention Relating to the Status of Stateless Persons. It notes that the lack of an accessible and effective route to regularisation for stateless persons will not be justified if it is a disproportionate interference with an individual's right to respect for private and family life, and that individuals must have a genuine possibility of accessing measures or mechanisms to regularise their status as stateless persons. The submission also analyses previous case law from the Court on this matter, in particular [Hoti v. Croatia](#) and [Sudita Keita v. Hungary](#).

This third party submission also provides general background information regarding law, policy, and practice on statelessness determination and the protection of stateless persons in Italy, as well as an overview of common barriers faced by stateless persons across Europe in accessing effective statelessness determination procedures.

### **Third party interventions (docs)**

[Dabetic v Italy - TPI, AIRE Centre & ENS \(24 January 2021\).pdf](#)