



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

FIRST SECTION

DECISION

Application no. 31149/12
Velimir DABETIĆ
against Italy

The European Court of Human Rights (First Section), sitting on 18 October 2022 as a Committee composed of:

Péter Paczolay, *President*,
Raffaele Sabato,
Davor Derenčinović, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 31149/12) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 11 May 2012 by a stateless person of Slovenian origin, Mr Velimir Dabetić, who was born in 1969 and lives in Santarcangelo di Romagna (“the applicant”), and was represented by Mr A. Saccucci and Ms J. Vengoechea Barrios, lawyers practising in Rome and New York;

the decision to give notice of the complaints raised under Articles 8, 13 and 14 of the Convention to the Italian Government (“the Government”), represented by their Agent, Mr Lorenzo D’Ascia, and to declare inadmissible the remainder of the application;

the parties’ observations;

the comments submitted by the AIRE (Advice on Individual Rights in Europe) Centre and the European Network on Statelessness, who were granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the difficulties of the applicant, a stateless person of Slovenian origin, in regularising his legal situation in Italy.

2. The applicant has been residing in Italy since 1989. In March 2006 he applied to the Ministry of the Interior for the determination of his statelessness. Pending the application, he also requested a temporary residency permit. Both requests were rejected. The main reason for rejection was that Italian law required pre-existing legal residency.

3. In May 2011 the applicant filed an application for the determination of statelessness with the Tribunal of Rome. In the meantime, he requested a temporary residency permit again pending the judicial proceedings, which was rejected by an interim decision of 9 November 2011.

4. By a judgment of 25 January 2013, the Tribunal of Rome recognised the applicant as stateless. The judgment became final in September 2013.

5. The applicant complained that Article 8 § 1 of the Convention had been violated, alleging that it was impossible for him to regularise his situation as a stateless person for a long time. He also invoked Article 14 of the Convention in conjunction with Article 8, claiming that he was discriminated against compared to asylum seekers and foreign nationals seeking access to Italian

citizenship, in particular on the ground of the criteria applicable to the different categories of people in order to access a temporary residence permit.

6. Finally, the applicant alleged a breach of Article 13 of the Convention claiming that he had not had any effective domestic remedy at his disposal for his complaints under Articles 8 and 14 of the Convention.

THE COURT'S ASSESSMENT

7. The Government submitted at the outset that the applicant has lost his victim status following the recognition of his status of stateless person by decision of the Tribunal of Rome of 25 January 2013.

8. They also observed that the applicant had failed to duly exhaust domestic remedies as, at the time of lodging his case before the Court, the internal proceedings before the tribunal of Rome were pending and, moreover, the applicant had failed to appeal against the interim decision of that tribunal of 9 November 2011.

9. The applicant replied that no compensatory measure had been applied in his case and that, therefore, he retained his victim status for the purposes of Article 34 of the Convention. He also contested the Government's arguments regarding non-exhaustion of domestic remedies.

10. The third interveners recalled *inter alia* that Member States have a positive obligation under the Convention to protect stateless persons and to reduce statelessness by way of providing accessible and effective domestic procedures.

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

12. Recalling the case *Kurić and Others v. Slovenia* ([GC], no. 26828/06, §§ 265-66, ECHR 2012 (extracts), and the case-law cited therein), the Court observes that in the present case the Tribunal of Rome recognised the applicant's status of stateless person by a decision of 25 January 2013.

13. Furthermore, the Court notes that, in several cases concerning regularisation of the status of aliens, the Court has held that the applicants were no longer victims of the alleged violations of the Convention after the issuing of a permit and has declared their applications inadmissible or found that the regularisation arrangements made available to the applicants constituted an adequate and sufficient remedy for their complaints under Article 8 of the Convention and has thus decided to strike the cases out of its list. The fact that the applicants were no longer at risk of deportation has also been taken into account by the Court (see *Kurić and Others*, cited above, § 266, and the case-law cited therein; *Sisojeva and Others v. Latvia* (striking out) [GC], no. 60654/00, §§ 102-04, ECHR 2007-I; *Shevanova v. Latvia* (striking out) [GC], no. 58822/00, §§ 48-50, 7 December 2007; and *Kaftailova v. Latvia* (striking out) [GC], no. 59643/00, § 54, 7 December 2007).

14. The Court sees no reasons to depart from these conclusions in the present case and considers that the applicant may no longer claim to be a victim of a violation of the Convention within the meaning of Article 34. The present application is therefore incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 17 November 2022.

