



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

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## FIRST SECTION

Application no. 31149/12  
Velimir DABETIĆ  
against Italy  
lodged on 11 May 2012  
communicated on 6 July 2021

### **SUBJECT MATTER OF THE CASE**

The application concerns the difficulties of the applicant, a stateless person of Slovenian origin, in regularising his legal situation in Italy. 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 behind the rejections was that Italian law required pre-existing legal residency. In May 2011 the applicant filed an application for the determination of statelessness with the Tribunal of Rome. He again requested a temporary residency permit pending the judicial proceedings, which was rejected. On 13 February 2013 the Tribunal of Rome recognised the applicant as stateless. The judgment became final in September 2013.

## QUESTIONS TO THE PARTIES

1. Having regard to the determination of statelessness by the Tribunal of Rome on 13 February 2013, can the applicant claim to be a victim of a violation of Articles 8, 13 or 14 of the Convention, within the meaning of Article 34?

2. Has there been an interference with the applicant's right to respect for his private life, within the meaning of Article 8 § 1 of the Convention, on account of his inability to have his personal status regularised for several years, and of his difficulties arising from that situation, in particular:

- his inability to obtain any form of temporary residency status,
- the fact that he was subject to criminal prosecution and punishment for his mere presence in Italy as an undocumented alien under Article 10-*bis* and Article 14, section 5-*bis*, 5-*ter*, 5-*quinqies*, of Legislative Decree 25 July 1998, no. 286, as amended by Law 12 November 2004, no. 271, and Law 15 July 2009, no. 94,
- the fact that he was arrested on multiple occasions and subjected to recurrent identity checks and deportation orders,
- his inability to work, travel and obtain any benefit or service beyond emergency health care?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (see *Sudita Keita v. Hungary*, no. 42321/15, 12 May 2020, and, *mutatis mutandis*, *B.A.C. v. Greece*, no. 11981/15, 13 October 2016)?

In answering the above questions, the Government are requested to specify, with reference to the situation at the relevant time and at present, whether the domestic courts and administrative authorities apply the criterion of lawful residence as a requirement for recognition of statelessness status.

3. Having regard to his vulnerability as a stateless person and, in particular, as a former Socialist Federal Republic of Yugoslavia citizen who had lost permanent residence status as a result of his “erasure” by Slovenian authorities from the Register of Permanent Residents (see *Kurić and Others v. Slovenia* [GC], no. 26828/06, ECHR 2012 (extracts)):

3.a) has the applicant received the same protection as available to asylum seekers, particularly in relation to the possibility – irrespective of the lawfulness of his residence – of applying to the competent administrative authority for statelessness determination and of obtaining a temporary residence permit pending the determination procedure? In the negative, did this treatment amount to a violation of Article 14 of the Convention, read in conjunction with Article 8 of the Convention?

3.b) has the applicant received the same legal treatment – in relation to the precondition of lawful residence for obtaining a temporary residence

permit – as foreign nationals seeking access to Italian citizenship? In the affirmative, did this treatment amount to a failure to treat differently persons whose situations are different, in breach of Article 14 of the Convention, read in conjunction with Article 8 of the Convention?

4. Did the applicant have available to him an effective domestic remedy for his complaints under Articles 8 and 14 of the Convention, as required by Article 13 of the Convention?

5. In answering the above questions, the parties are invited to supplement their replies by referring to the relevant national and international legal framework, including the United Nations Convention relating to the Status of Stateless Persons of 1954, ratified by Italy according to Law 1<sup>o</sup> February 1962, No. 306, and the United Nations Convention on the Reduction of Statelessness of 1961, to which Italy accessed according to Law 9 September 2015, No. 162.