



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

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FIRST SECTION

Applications nos. 9230/19 and 28120/19
[REDACTED] against Italy
and M.C. against Italy
lodged on 8 February 2019 and 16 May 2019 respectively
communicated on 9 October 2023

SUBJECT MATTER OF THE CASE

The applications concern whether the presumption of innocence has been violated in criminal proceedings against the applicants, which were dismissed as the offences were considered statute-barred.

The applicants complain that the content and the expressions used in the request for dismissal and/or the order of dismissal (see appended table) indicated their guilt, notwithstanding the absence of a formal finding of guilt, in violation of their right to be presumed innocent guaranteed by Article 6 § 2 of the Convention. In this regard, they further alleged that they had waived the statute of limitations in order to have their innocence fully established, but that it had not been considered by the domestic courts.

They also complain, under Article 13 in conjunction with Article 6 § 2 of the Convention, of the lack of domestic remedies to contest the content of the orders of dismissal of the criminal proceedings against them.

CANALE v. ITALY AND M.C. v. ITALY – SUBJECT MATTER OF THE CASE
AND QUESTIONS

QUESTIONS TO THE PARTIES

1. Was the presumption of innocence, guaranteed by Article 6 § 2 of the Convention, respected in the criminal proceedings against the applicants?

In particular, did the decisions of the domestic courts declaring the offence statute-barred reflect the opinion that the applicants were guilty, notwithstanding the absence of a formal finding of guilt (*G.I.E.M. S.r.l. and Others v. Italy* [GC], nos. 1828/06 and 2 others, §§ 314-18, 28 June 2018; *Peltreau-Villeneuve v. Switzerland*, no. 60101/09, §§ 30-39, 28 October 2014; *Virabyan v. Armenia*, no. 40094/05, §§ 186-91, 2 October 2012; and *Stirmanov v. Russia*, no. 31816/08, §§ 42-50, 29 January 2019)?

In answering this question, the parties are invited, in particular, to comment on:

- whether the description of the findings of the investigation was strictly necessary and, if so to what extent, in order to declare the offence statute-barred, in the light of the criteria provided for by domestic law;

- the fact that the domestic courts failed to consider the applicants' waiver of the statute of limitations (see, *mutatis mutandis*, *Caraiac v. Romania*, no. 34456/07, §§ 75-76, 23 June 2015; see also the judgment of the Court of Cassation no. 26289 of 24 April 2018);

- whether the applicants had the opportunity to exercise their right of defence with regard to the charges against them.

- as to application no. 28120/19, the fact that the public prosecutor, in his request for dismissal of the proceedings as statute-barred, requested that the case file (including the request itself) be entered in the database collecting information on organised crime (the so called "SIDDA-SIDNA database").

2. Did the applicants have at their disposal an effective domestic remedy for their complaint under Article 6 § 2, as required by Article 13 of the Convention, considering that the alleged violations were contained in the reasoning of a request for dismissal and/or in an order of dismissal of the criminal proceedings against them?

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APPENDIX

No.	Application no. Case name Introduction date	Applicant's name Year of birth Place of residence Nationality	Representative's name Location	Judicial acts in which the alleged violation was committed
1.	9230/19 C [REDACTED] v. Italy 08/02/2019	[REDACTED] [REDACTED] Italian	[REDACTED]	- Order of dismissal of the criminal proceedings against the applicant issued by the judge for preliminary investigations at the District Court of Palermo on 25/08/2018.
2.	28120/19 M.C. v. Italy 16/05/2019	M. C. [REDACTED]	[REDACTED]	- Request to dismiss the criminal proceedings against the applicant issued by the public prosecutor at the District Court of Rome on 31/05/2017; - Order of dismissal of the criminal proceedings against the applicant issued by the judge for preliminary investigations at the District Court of Rome on 16/11/2018.