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

FIRST SECTION

DECISION

Application no. 36986/17
Sabaly BACARY
against Italy

The European Court of Human Rights (First Section), sitting on 21 October 2021 as a Committee composed of:

Erik Wennerström, *President,*
Lorraine Schembri Orland,
Ioannis Ktistakis, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 24 May 2017,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Sabaly Bacary, a Senegalese national, was born in 2000. He was represented by Ms L. Leo, a lawyer practising in Rome.

The applicant arrived in Italy on board of a rudimentary vessel on 16 September 2016 and later transferred to the Italian Red Cross Centre in Rome. The applicant's complaints under Articles 3 and 8 of the Convention, concerning his stay conditions in the said Centre, were communicated to the Italian Government ("the Government"), who submitted observations on the admissibility and merits. The observations were forwarded to the applicant, who submitted his observations in reply.

On 9 June 2021, the Registry sent a letter to the applicant's representative through the Court's Electronic Communication System (eComms) requesting to indicate, within a deadline, if she was still in contact with her client. At the representative's request, a new deadline was set, expiring on 2 August 2021. The applicant party's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike an application out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application.

No reply was received to this letter. The applicant's whereabouts are therefore unknown.

THE LAW

The Court recalls that an applicant's representative must not only supply a power of attorney or written authority (Rule 45 § 3 of the Rules of Court) but that it is also important that contact between the applicant and his or her representative be maintained throughout the proceedings. Such contact is essential both in order to learn more about the applicant's particular situation and to confirm the applicant's continuing interest in pursuing the examination of his or her application (see *V.M. and Others v. Belgium* (striking out) [GC], no. 60125/11, § 35, 17 November 2016, *Sharifi and Others v. Italy and Greece*, no. 16643/09, § 124, 21 October 2014, and, *mutatis mutandis*, *Ali v. Switzerland*, 5 August 1998, § 32, *Reports of Judgments and Decisions* 1998-V). In the case *N.D. and N.T. v. Spain* [GC] (nos. 8675/15 and 8697/15, § 73, 13 February 2020), the Court has held that a situation, when the applicant's representative had lost touch with his or her client, including in cases concerning expulsion of aliens, might warrant striking the application out of the list under Article 37 § 1. The lack of contact was sometimes taken as an indication that the applicant no longer wished to pursue the application within the meaning of Article 37 § 1 (a) (see *Ibrahim Hayd v. the Netherlands* (dec.), no. 30880/10, 29 November 2011, and *Kadzoev v. Bulgaria* (dec.), no. 56437/07, § 7, 1 October 2013) or that examination of the application was no longer justified because the representative could not "meaningfully" pursue the proceedings before it in the absence of instructions from the applicant, despite the fact that the lawyer had authority to continue with the proceedings (see *Ali v. Switzerland*, 5 August 1998, §§ 30-33, *Reports of Judgments and Decisions* 1998-V, and *Ramzy v. the Netherlands* (striking out), no. 25424/05, §§ 64-66, 20 July 2010). In some cases, the Court's findings combined these two reasons (see *M.H. v. Cyprus* (dec.), no. 41744/10, § 14, 14 January 2014, and *M.Is. v. Cyprus* (dec.), no. 41805/10, § 20, 10 February 2015). In *Sharifi and Others* (cited above), the Court struck the application out of its list with regard to some of the applicants in respect of whom the information provided by the lawyer was vague and superficial and insufficiently substantiated (§§ 127-29 and 131-34).

In the present case, the applicant's representative failed to answer the Court's requests to be informed whether she was still in contact with her client.

In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention and the Protocols thereto, the Court, in accordance with Article 37 § 1 (a) of the Convention, considers that it is no longer justified to continue the examination of the application.

Accordingly, the case should be struck out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 18 November 2021.

{signature_p_2}

Viktoriya Maradudina
Acting Deputy Registrar

Erik Wennerström
President