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

THIRD SECTION

DECISION

Application no. 33229/12
Meiron Misganae MICHEAL
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 11 March 2014 as a Committee composed of:

Alvina Gyulumyan, *President,*
Kristina Pardalos,
Johannes Silvis, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 1 June 2012,

Having regard to the interim measure indicated in the present application to the Netherlands Government under Rule 39 of the Rules of Court, and the fact that this interim measures has been complied with,

Having regard to the information submitted by the parties as well as the Italian Government,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Meiron Misganae Micheal, is an Eritrean national. He claimed that he was born in 1995 and he is currently staying in the Netherlands. He was represented before the Court by Ms C.G. Matze, a lawyer practising in Breda.

2. The Dutch Government ("the Government") were represented by their Agent, Mr R.A.A. Böcker, and their Deputy Agent, Ms L. Egmond, both of the Ministry of Foreign Affairs. The Italian Government, who had been invited to intervene under Article 36 § 2 of the Convention, were represented by their Agent, Ms E. Spatafora, and their Co-Agent, Ms P. Accardo.

3. The applicant complained that his transfer by the Netherlands authorities to Italy under the terms of Council Regulation (EC)

no. 343/2003 of 18 February 2003 ("the Dublin Regulation") would be in violation of Article 3 of the Convention. He further invoked Article 4 of the Convention in relation to his transfer to Italy.

4. On 5 June 2012 the Acting President of the Section to which the case had been allocated decided, at the request of the applicant, to indicate to the Government of the Netherlands that it was desirable in the interests of the parties and the proper conduct of the proceedings before the Court not to expel the applicant to Italy (Rule 39 of the Rules of Court). The Acting President further decided to bring the application to the notice of the respondent Government in accordance with Rule 54 § 3 (b) of the Court's Rules of Procedure without, for the time being, asking the Government to submit written observations on the admissibility and merits. The Acting President did request the respondent Government under Rule 54 § 2 (a) to submit information of a factual nature. The Acting President lastly decided to invite the Government of Italy, under Rule 44 § 3 (a), to submit as a third-party intervener information of a factual nature. This information concerned in particular the applicant's situation in Italy.

5. The Netherlands Government submitted the information requested on 12 June 2012. On 14 June 2012, the Acting President requested also the applicant to submit factual information. The applicant submitted this information on 27 June 2012. On the same date, the Government of Italy submitted the information requested on 5 June 2012. The applicant was invited to submit comments, which he did on 28 August 2012.

6. On 7 September 2012, the President of the Section requested the respondent Government to submit written observations on the admissibility and merits of the case. These observations were submitted on 27 February 2013 and the applicant's written observations in reply were submitted on 14 April 2013.

7. On 3 January 2014, the applicant's representative informed the Court that the applicant had been granted a Netherlands residence permit but that he had not yet received the applicant's permission to withdraw the case.

8. On 7 January 2014, the respondent Government informed the Court that the applicant had erroneously been granted a Netherlands residence permit valid until 21 November 2018 and that this decision could not be reversed. They therefore requested the Court to strike the application out of its list of pending cases. The applicant was invited to submit by 29 January 2014 comments on the Government's request. He was warned that failure to reply could lead the Court to conclude that he was no longer interested in pursuing his application. To date, the applicant has not filed any response.

THE LAW

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

In view of the above, it is appropriate to strike the case out of the list and to discontinue the application of Rule 39 of the Rules of Court.

For these reasons, the Court unanimously

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

Marialena Tsirli Deputy Registrar	Alvina Gyulumyan President