



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

FIRST SECTION

CASE OF BELLOTTO AND OTHERS v. ITALY

(Applications nos. 5170/21 and 4 others – see appended list)

JUDGMENT

STRASBOURG

16 November 2023

This judgment is final but it may be subject to editorial revision.

In the case of Bellotto and Others v. Italy,

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

Krzysztof Wojtyczek, *President*,

Lətif Hüseyinov,

Ivana Jelić, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 12 October 2023,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Italy lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applicants were represented by Mr N. Zampieri, a lawyer practising in Schio.

3. The Italian Government (“the Government”) were given notice of the applications.

THE FACTS

4. The list of applicants and the relevant details of the applications are set out in the appended table.

5. The applicants complained of the retrospective application of section 1(218) of Law no. 266/2005 of 23 December 2005 to pending proceedings.

THE LAW

I. JOINDER OF THE APPLICATIONS

6. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL NO. 1

7. The applicants complained under Article 6 § 1 of the Convention that the retrospective application of section 1(218) of Law no. 266/2005 of 23 December 2005 to pending proceedings infringed their right to a fair hearing. They also complained under Article 1 of Protocol No. 1 that the retrospective nature of section 1(218) of Law no. 266/2005 of 23 December

2005 deprived them of their property in so far as that provision settled the dispute between them and the administrative authorities with final effect.

8. In the context of civil disputes, the Court has repeatedly ruled that although, in principle, the legislature is not prevented from regulating, through new retrospective provisions, rights derived from the laws in force, the principle of the rule of law and the notion of fair trial enshrined in Article 6 preclude any interference by the legislature with the administration of justice designed to influence the judicial determination of a dispute, save on compelling grounds of the general interest. There are dangers inherent in the use of retrospective legislation which has the effect of influencing the judicial determination of a dispute to which the State is a party, including where the effect is to make pending litigation unwinnable. Respect for the rule of law and the notion of a fair trial therefore require that any reasons adduced to justify such measures be treated with the greatest possible degree of circumspection (see *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, §§ 92-93, 3 November 2022).

9. The relevant domestic law and practice with regard to the application of section 1(218) of Law no. 266/2005 of 23 December 2005 to pending proceedings is set out in the judgments *Agrati and Others v. Italy* (nos. 43549/08 and 2 others, 7 June 2011); *De Rosa and Others v. Italy* (nos. 52888/08 and 13 others, 11 December 2012); *Caligiuri and Others v. Italy* (nos. 657/10 and 3 others, 9 September 2014); and *Cicero and Others v. Italy* (nos. 29483/11 and 4 others, 30 January 2020).

10. Having regard to the case-law cited above and the documents submitted by the applicants, the Court sees no reason to reach a different conclusion on the admissibility of these complaints.

11. As regards Article 6 § 1 of the Convention, the Court finds that in the circumstances of the present case section 1(218) of Law no. 266/2005 of 23 December 2005 resolved the merits of the dispute between the applicants and the State in the domestic courts with final retrospective effect, and that the legislature's intervention was not justified by any compelling grounds of the general interest. Therefore, there has been a violation of Article 6 § 1 of the Convention.

12. With regard to Article 1 of Protocol No. 1 to the Convention, the Court notes that the applicants argue that their property rights were infringed and submit unofficial tables with estimates of the damage allegedly suffered. Nevertheless, from the available documents, it appears that the applicants' seniority was not affected by the interference and, consequently, that they did not suffer any financial loss. Therefore, the Court considers that, in the instant case, despite its retrospective application, section 1(218) of Law no. 266/2005 of 23 December 2005 did not affect the applicants' right to the peaceful enjoyment of possessions and did not upset the fair balance between the demands of the public interest and the protection of individual fundamental rights.

13. The foregoing considerations are sufficient for the Court to conclude that there has been no violation of Article 1 of Protocol No. 1 to the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. Regard being had to its case-law (see, in particular, *Agrati and Others v. Italy* (just satisfaction), nos. 43549/08 and 2 others, 8 November 2012, *De Rosa and Others*, cited above, §§ 48-54, *Caligiuri and Others*, cited above, §§ 41-55 and *Cicero and Others*, also cited above, §§ 48-61) and to the conclusions reached in respect of the complaints raised under Article 1 of Protocol No. 1 to the Convention, the Court considers that no pecuniary damage must be awarded to the applicants and that the finding of a violation is sufficient to compensate them for any non-pecuniary damage sustained as a result of the violation of their Article 6 rights.

15. With regard to costs and expenses, considering the repetitive nature of the applications, the Court finds it reasonable to award 250 euros (EUR) to each of the applicants under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention concerning the retrospective application of section 1(218) of Law no. 266/2005 of 23 December 2005 to pending proceedings;
4. *Holds* that there has been no violation of Article 1 of Protocol No. 1;
5. *Holds*
 - (a) that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicants;
 - (b) that the respondent State is to pay each of the applicants, within three months, EUR 250 (two hundred and fifty euros) for costs and expenses;
 - (c) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

BELLOTTO AND OTHERS v. ITALY JUDGMENT

Done in English, and notified in writing on 16 November 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Krzysztof Wojtyczek
President

BELLOTTO AND OTHERS v. ITALY JUDGMENT

APPENDIX

List of applications

No.	Application no. Date of introduction	Case name	Applicant's name Year of birth
1.	5170/21 13/01/2021	Bellotto v. Italy	Paolo BELLOTTO 1954
2.	5172/21 13/01/2021	Cimitan v. Italy	Gianna CIMITAN 1966
3.	5174/21 13/01/2021	Bellese v. Italy	Erminia BELLESE 1948
4.	6223/21 13/01/2021	Urso v. Italy	Milena URSO 1947
5.	7265/21 13/01/2021	Sartor v. Italy	Dorina SARTOR 1953