

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

FIRST SECTION

CASE OF ORLANDO AND OTHERS v. ITALY

(Applications nos. 10868/15 and 2 others –
see appended list)

JUDGMENT

STRASBOURG

24 September 2026

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



In the case of Orlando and Others v. Italy,

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

Erik Wennerström*, President*,
Raffaele Sabato,
Alain Chablais*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Italian nationals, whose details are listed in the appended table – namely Ms Ornella Orlando ("the first applicant"), Ms Giovanna De Vincentiis ("the second applicant"), and Agenzia Ofelia di Delia Mercuri, a company registered in Italy ("the third applicant") – on the various dates indicated therein;

the decision to give notice of the applications to the Italian Government ("the Government") represented by their Agent, Mr L. D'Ascia, *Avvocato dello Stato*;

the parties' observations;

Having deliberated in private on 3 September 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the refusal by the domestic administrative courts to grant reimbursement of the costs which the applicants had incurred in disputes successfully lodged against the State, without providing any reason for their decision.

2. On various dates the applicants instituted proceedings in the regional administrative courts (*Tribunali Amministrativi Regionali* – "the TAR") against different domestic authorities, complaining that their respective requests to obtain access to documents concerning administrative procedures had been dismissed.

I. APPLICATION No. 10868/15

3. The TAR dismissed the first applicant's claim.

4. She appealed against that decision to the *Consiglio di Stato* which, on 26 August 2014, upheld one of her grounds of appeal and granted access to the documents. It held that "in the light of the circumstances, the parties shall bear their own costs".

II. APPLICATION No. 31961/23

5. On 12 June 2022 the second applicant notified the authority concerned of its action in the TAR.

6. Subsequently the second applicant was notified that the authority concerned had granted access to the documents. She informed the TAR and requested the termination of the proceedings.

7. On 17 October 2022 the TAR terminated the proceedings and held that the parties had to bear their own costs (*spese compensate*).

8. The second applicant appealed against that decision to the *Consiglio di Stato* which, on 7 April 2023, dismissed her claim, observing that the administrative courts enjoy broad discretion and may consider there to be justified reasons for the parties to bear their own costs.

III. APPLICATION No. 31978/23

9. The TAR upheld the third applicant's claim and held that the authority concerned had to reimburse 200 euros (EUR) to cover the costs of legal representation incurred by the third applicant and the registration fee (*contributo unificato*).

10. The third applicant appealed against that decision to the *Consiglio di Stato*, arguing that the amount awarded was insufficient compared to the expenses actually incurred.

11. On 18 April 2023 the *Consiglio di Stato* dismissed the appeal. It observed that a lump-sum award to cover costs incurred by the successful party was an established practice, and that the administrative courts were not required to refer to the minimum scale of fees set out in Decree no. 55 of 10 March 2014 of the Ministry of Justice. In the circumstances of the case and in the light of the simplified nature of the proceedings, the sum was considered reasonable.

IV. COMPLAINTS

12. The applicants complained of a breach of their right of access to a court, guaranteed by Article 6 § 1 of the Convention, owing to the refusal by the administrative courts to grant reimbursement of the costs incurred in the proceedings. They also raised the same complaint under Article 1 of Protocol No. 1 to the Convention and/or Article 13 of the Convention.

THE COURT'S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

13. 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

14. As to the applicants' complaint about lack of access to court under Article 6§ 1, this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

15. The Court reiterates that, even where access to court was not denied, *ex post facto* refusals to reimburse the applicants' own costs in disputes successfully lodged against the State arising from the exercise of its public authority constitute restrictions on the right of access to court. Those restrictions will not be compatible with Article 6 § 1 if they do not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought (see *Moskalj v. Croatia*, no. 60272/21, § 82, 15 October 2024, with further references, and *Černius and Rinkevičius v. Lithuania*, nos. 73579/17 and 14620/18, § 68, 18 February 2020).

16. In the present case, the applicants successfully lodged actions against the State for acts carried out in the exercise its public authority. The refusal to grant reimbursement of the costs incurred in the proceedings thus constituted a restriction on their right of access to a court. The same applies to the third applicant, since the symbolic sum awarded had the effect that it essentially had to bear its own costs.

17. As to the existence of a legitimate aim, the Court reiterates that for the State to shift the expense of remedying its own errors on the individuals concerned is contrary to the well-established principle that the risk of any mistake made by a State authority must be borne by the State itself (see *Zustović v. Croatia*, no. 27903/15, § 106, 22 April 2021). The Court, however, does not disregard the possibility to limit reimbursement of legal representation fees in administrative proceedings as being legitimate on the basis of public interest-related financial considerations (see *Černius and Rinkevičius*, cited above, § 69). The question is whether the restriction was proportionate.

18. The Court takes note of the Government's view that the decisions in the present cases fell within the broad discretion conferred on the administrative courts with regard to representation fees. However, although States enjoy a wide margin of appreciation in regulating their systems of allocation of costs in judicial proceedings (see *National Movement*

Ekoglasnost v. Bulgaria, no. 31678/17, § 83, 15 December 2020), the domestic courts must at least provide a statement of reasons for their decisions (see *Moskalj*, cited above, §§ 87-88, and *Dragan Kovačević v. Croatia*, no. 49281/15, § 83, 12 May 2022).

19. The Court notes that this is also required by the applicable domestic provisions. Article 26 of Legislative Decree no. 104 of 2 July 2010 provided that the administrative courts must decide on costs in accordance with, *inter alia*, Articles 91 and 92 of the Code of Civil Procedure. Article 91 stated that the "loser pays" principle (*principio della soccombenza*) is applied by default, whereas Article 92 provided that the costs awarded to the successful party can be reduced if excessive (first paragraph), and that the "loser pays" principle may be disapplied in specific circumstances (second paragraph). In both versions applicable to the applicants' cases[1], the second paragraph of Article 92 stated that the "loser pays" principle may be disapplied for "serious and exceptional reasons, which must be explicitly indicated". The Government themselves referred to judgments of the *Consiglio di Stato* specifying that the reasons must be stated (judgment no. 1816 of 2024) or that, at the very least, it must be possible to infer the reasons from the context (judgment no. 4536 of 2018).

20. The Court agrees that there may be reasons for disapplying the "loser pays" principle. However, those reasons, which are exhaustively listed in the relevant domestic provisions, must be clearly stated.

21. As concerns the first and second applicants, it cannot be said that the administrative courts complied with that duty by simply stating that the decisions were based on the "circumstances of the case" (see paragraph 4 above) or "justified reasons" (see paragraph 8 above), respectively. As regards the third applicant's case, the *Consiglio di Stato* did provide reasons, referring to the simplicity of the proceedings (see paragraph 11 above). The Government argued that this justification applied to all three applicants' cases, owing to the simplified nature of proceedings concerning access to public documents governed by Article 116 of Decree no. 104/2010.

22. The Court considers that the simplicity of the proceedings cannot in itself justify the disapplication of the "loser pays" principle, as this argument fails to consider that the role of an advocate is not limited to the actual drafting of a complaint (see *Moskalj*, cited above, § 89). By contrast, that simplicity may justify the award of a reduced amount (*ibid*., § 92), provided that there is an examination of proportionality (see *Černius and Rinkevičius*, cited

[1] At the time of the decision of the domestic courts in application no. 10868/15, the version in force was the one resulting from the amendment introduced by Law no. 263 of 28 December 2005. At the time of the decision of the domestic courts in the other two applications, the version in force was the one resulting from the amendment introduced by Decree-Law no. 132 of 12 September 2014, as amended by Law no. 162 of 10 November 2014, and as applied by the additional ruling of the Constitutional Court in judgment no. 77 of 2018.

above, § 73). Such an examination was absent in the applicants' cases, including with regard to the decision to award EUR 200 to the third applicant.

23. Regardless of whether or not the administrative courts were required to refer to the scale of fees established in the relevant ministerial decree (see paragraph 11 above), what matters to the Court is that the domestic courts provided no reasons at all as to whether their decision on costs could be seen as fair and justified in the specific circumstances of the case (see *National Movement Ekoglasnost*, cited above, § 83).

24. Moreover, the Court cannot share the Government's view that the applicants could have reduced the costs incurred by choosing not to be represented by a lawyer – a possibility allowed in proceedings concerning access to public documents – since that approach would disregard its case-law highlighting the special role of lawyers in the administration of justice (see *Černius and Rinkevičius*, cited above, § 70).

25. With regard to application no. 10868/15, the Government argued that the decision had been justified by the fact that the first applicant's claim had been dismissed by the TAR. However, the fact that one of the first applicant's grounds of appeal had been upheld, thereby reversing the previous unfavourable judgment and granting her access to the requested documents, points to the opposite conclusion, given that errors made by a public authority must not be remedied at the expense of the individuals concerned (see *Moskalj*, cited above, § 83).

26. As to application no. 31961/23, the Government stressed that access to the requested documents had been allowed by the authority while the case was pending before the TAR and that the costs in question had not been "necessarily incurred". The Court nevertheless observes that access was granted only after the second applicant's lawyer had drafted and lodged the complaint with the TAR and that those expenses had therefore already been "incurred" (see *Zustović*, cited above, § 109).

27. The above considerations remain valid even though, in accordance with Article 13 § 6 *bis*.1 of Presidential Decree no. 115 of 30 May 2002, the applicants, as the successful parties, were in any event entitled to reimbursement of the registration fee (*contributo unificato*). In fact, the amounts paid in this connection differed significantly from legal representation costs.

28. In the light of the above, the Court, having carefully examined the observations of the parties, considers that the domestic courts' refusal to grant reimbursement of the applicants' legal costs and, with regard to the third applicant, the reimbursement of a merely symbolic amount, constituted a breach of their right of access to a court.

29. There has accordingly been a violation of Article 6 § 1 of the Convention in the applicants' cases.

III. OTHER COMPLAINTS

30. The applicants also raised the same complaint under Article 1 of Protocol No. 1 to the Convention and/or Article 13 of the Convention. Having regard to the facts of the case and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the admissibility and merits of the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no.47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. The first and third applicants claimed the amounts indicated in the appended table.

32. The Government did not comment.

33. As regards pecuniary damage, the Court considers, on the basis of the amounts paid for their legal representation, that there is a sufficient causal link between the first and third applicants' claims and the violation found. The Court reiterates, however, that it has acknowledged that the simplicity of the domestic proceedings can justify an award of a reduced amount (see paragraph 22 above).

34. The Court notes that the first applicant claimed an amount which is lower than the minimum scale of fees established in the relevant ministerial decree for simple cases in the administrative courts. It therefore considers it reasonable to award the full amount claimed, plus any tax that may be chargeable. However, in so far as the claim included EUR 750 to cover the registration fee, the Court notes that the first applicant was legally entitled to reimbursement irrespective of the administrative courts' decision on costs in her case (see paragraph 27 above). Accordingly, if the Government can show that the first applicant has already been reimbursed, that amount would be deducted from the amount owing.

35. By contrast, the Court notes that the third applicant's claim is significantly higher than the above-mentioned minimum scale of fees. The Court thus considers that, taking into account the amounts already awarded at the national level (see paragraph 9 above), it is reasonable to award the amount indicated in the appended table, plus any tax that may be chargeable.

36. As regards the first applicant's claim in respect of non-pecuniary damage, ruling on an equitable basis, the Court awards her EUR 3,000, plus any tax that may be chargeable (see *Zustović*, § 133, and *Moskalj*, § 101, both cited above).

37. Having regard to the documents in its possession, the Court also considers it reasonable to award the first and third applicants the amounts indicated in the appended table for the costs and expenses incurred before the Court, plus any tax that may be chargeable.

38. As the second applicant did not submit a claim for just satisfaction, the Court considers that there is no call to award any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaint under Article 6 § 1 of the Convention admissible;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

4. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints;

5. *Holds*
   (a) that the respondent State is to pay, within three months, the first and third applicants the amounts indicated in the appended table;
   (b) 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;

6. *Dismisses* the remainder of the first and the third applicants' claims for just satisfaction.

Done in English, and notified in writing on 24 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Erik Wennerström President

APPENDIX

List of cases:

No.	Application no. Lodged on	Case name	Applicant Year of Birth/Registration Place of Residence Nationality	Represented by	Amounts claimed in respect of just satisfaction (in euros)	Amounts awarded for pecuniary and non-pecuniary damage (in euros)[1]	Amounts awarded for costs and expenses (in euros)[2]
1.	10868/15 25/02/2015	Orlando v. Italy	**Ornella ORLANDO** 1982 Naples Italian	Luca STRAZZULLO	**Pecuniary damage: total EUR 4,421.20** *First-instance proceedings* - EUR 499.20 in respect of legal representation costs; - EUR 300 in respect of the costs of the proceedings. *Appeal proceedings* - EUR 1,172 in respect of legal representation costs; - EUR 450 in respect of the costs of the proceedings. **Non-pecuniary damage** EUR 5,000	**Pecuniary damage** EUR 4,421.20 Less any amount already paid to the applicant for registration fees (*contributo unificato*). **Non-pecuniary damage** EUR 3,000	EUR 4,000

[1] Plus any tax that may be chargeable to the applicants.
[2] Plus any tax that may be chargeable to the applicants.

No.	Application no. Lodged on	Case name	Applicant Year of Birth/Registration Place of Residence Nationality	Represented by	Amounts claimed in respect of just satisfaction (in euros)	Amounts awarded for pecuniary and non-pecuniary damage (in euros)[1]	Amounts awarded for costs and expenses (in euros)[2]
					Costs and expenses incurred before the Court EUR 5,588.91		
2.	31961/23 05/08/2023	De Vicentiis v. Italy	**Giovanna DE VICENTIIS** 1957 Castiglione Messer Raimondo Italian	Vincenzo Luca SALINI	No claim for just satisfaction submitted within the time-limit set by the Court	-	-
3.	31978/23 04/08/2023	Agenzia Ofelia di Delia Mercuri v. Italy	**AGENZIA OFELIA DI DELIA MERCURI** 1996 Caulonia Italian	Maria Carmela MIRARCHI	**Pecuniary damage** *First-instance proceedings* EUR 8,160 **Non-pecuniary damage** No claim submitted **Costs and expenses before the Court** EUR 5,000	**Pecuniary damage** EUR 4,500	EUR 4,000