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Statelessness Status Determination in Italy: Quality Assurance Needed!

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Previous posts have highlighted the importance of statelessness status determination procedures for providing protection to stateless persons ([here](#) and [here](#), for example), as well as the need to ensure that such procedures operate [effectively and efficiently](#).

The ongoing cases of Roberto Iseni and Velimir Dabetić in Italy illustrate the human impact of a status determination procedure gone awry.

Roberto Iseni

Roberto Iseni, now 25 years old, was born in Italy and has lived there ever since. Hearing and speech impaired, he also began living in state-sponsored homes when he was 16, receiving support from social assistants for the disabled. His parents, both of Roma ethnicity, were citizens of the Socialist Federal Republic of Yugoslavia (SFRY). Since the breakup of the SFRY, his mother has gained Croatian citizenship, his father Serbian. Neither state recognizes Iseni as a citizen. Under Article 4(2) of Italy's [citizenship law](#) (Act No. 91 of 5 February 1992), Iseni could have applied for Italian citizenship during a one-year window after he turned 18. He missed that deadline – not learning of its existence until too late. He entered his adult life without citizenship.



Italy has two separate systems of status determination: administrative and judicial. Administrative procedures can only be accessed by those legally present on the Italian territory. Italy is [not alone](#) in Europe in restricting its procedure in this fashion. In any case, the administrative procedure is renowned for its general state of [dysfunction](#). The judicial procedure is, commendably, open to applicants even if they are not already legally present in Italy, but operational and structural problems severely undermine its efficacy.

Iseni has been in judicial statelessness determination proceedings since October 2009. His first-instance application for statelessness status was [denied](#) by a Milan court, in spite of the strength of his claim, including statements from the consulates of both Serbia and Croatia indicating he is [not considered a citizen under the operation of relevant laws](#). His appeal remains pending – the appellate court postponed its determination for the third time just last week. The next hearing will not take place until May 2013.

Luckily for Iseni, the appeals court, at its own discretion, ordered the municipality of Milan to provide him with a temporary permit of stay pending the outcome of the appeal. Iseni is therefore spared, for the time being, the risk of arrest, detention and criminal penalties he could face [due to his presence in Italy without a residence permit](#).

Velimir Dabetić

Velimir Dabetić has not been so lucky: approaching his seventh year in statelessness determination proceedings, he has never been granted a temporary permit of stay. He requested interim relief in the form of a temporary permit of stay while he awaits judicial status determination. The court denied his request on the ground that it did not have jurisdiction to issue such an order – contradicting the appeals court in Roberto Iseni's case.

Without legal status in Italy, Dabetić has been arrested repeatedly for illegal stay and Italian authorities have even attempted to deport him on several occasions, most recently to Romania, a country to which he has no connection whatsoever. Dabetić's only protection

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against further harassment is a 2006 judgment in which the Tribunal of Mantua acquitted him of illegal stay on account of the fact that he had no citizenship and therefore he had valid reasons for not complying with deportation orders.

Dabetić was one of the original applicants in [Kurić and others v. Slovenia](#), a landmark case before the European Court of Human Rights. In its judgment of 26 July 2012, the Court's Grand Chamber held that Slovenia had violated the European Convention by failing to regulate comprehensively and appropriately the legal status of the "erased" – a group of nearly 20,000 former SFRY citizens whose names were erased from the Slovenian Registry of Permanent Residents in 1992, shortly after the enactment of newly independent Slovenia's citizenship laws.

Born in Slovenia in 1971, Dabetić has been living in Italy since 1989. He lived and worked in Italy legally until 2002, when his former SFRY passport expired and his status there became irregular. He attempted to regain legal status in Slovenia unsuccessfully, through requests for reinstatement of his permanent residency status and an application for Slovenian citizenship under Section 19 of the Slovenian Citizenship Act. In spite of these efforts, and although the Court found that remedies in Slovenia for the erased were ineffective, the Court held that Dabetić's application was inadmissible for failure to exhaust domestic remedies, by a slim majority of just 9–to–8.

Ten years of legal struggles left him no better off than on the day his passport expired. When the Grand Chamber heard arguments on the Kurić case in July 2011, the President of the Court requested Italy's cooperation in allowing Dabetić to travel to Strasbourg for the hearing. Italy issued a temporary travel document, listing his nationality as "NONE". In addition to the 2006 Mantua judgment, this was the second time that Italian authorities openly confirmed Dabetić's statelessness.

Like Iseni, Dabetić is barred from access to the administrative statelessness status determination procedure in Italy because he lacks a residency permit – even though he originally entered Italy legally and worked there legally for many years.

Dabetić's judicial application is still pending at the first instance. As previous posts have also noted, UNHCR recently issued authoritative [guidelines](#) for status determination procedures, suggesting (at para. 22) that "manifestly well-founded" applications could be resolved in only a few months. Especially in light of Italy's official statements acknowledging that Dabetić is stateless, the strength of his application is readily apparent. By any reasonable measure, he should have already been accorded protection.

The [growing recognition](#) of the need for high-quality status determination procedures is promising. Italy's present system calls out for reform: access to the administrative procedure should be extended to include applicants not already in possession of a permit of stay; interim protection pending the outcome of procedures (including permits of stay) should be uniformly available; and procedures should conclude expeditiously. The disturbing experiences of Roberto Iseni and Velimir Dabetić not only defy rational justification – they demand a systematic response.

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