

IN THE INTERNATIONAL COURT OF JUSTICE

GERMANY,)
APPLICANT)
V.
ITALY,)
RESPONDENT)

MEMORIAL OF THE REPUBLIC OF ITALY

COMES NOW the Republic of Italy and for their Memorial to the Court states the following:

STATEMENT OF LAW:

1. International Law does not yet recognize a binding treaty concerning Jurisdictional Immunities of the State and Property as the necessary number of signatories to the treaty has not yet been obtained.

2. The European Convention for the Peaceful Settlement of Disputes, Strasbourg, 29.IV. 1957 states in Article 28 that:

1. The provisions of this Convention shall not apply to disputes which the parties have agreed or may agree to submit to another procedure of peaceful settlement. Nevertheless, in respect of disputes falling within the scope of Article 1, the High Contracting Parties shall refrain from invoking as between themselves agreements which do not provide for a procedure entailing binding decisions.

2. This Convention shall in no way affect the application of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4th November 1950, or of the Protocol thereto signed on 20th March 1952.

3. The European Convention for the Protection of Human Rights and Fundamental Freedoms states in Article 4 that:

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.

4. The European Convention for the Protection of Human Rights and Fundamental Freedoms states in Article 5 that:

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

5. The Law on the Creation of a Foundation “Remembrance, Responsibility and Future” was created by Germany in 2000 to express and affirm their commitment to reparations and stance against forced labor and internment. Italy was not involved in the discussions leading up to the foundation.

STATEMENT OF FACT

Italy holds that Germany has not paid due reparations to Italian peoples affected by the actions of the National Socialist Party during World War II, and implores Germany to offer appropriate reparation to the victims. Furthermore, the system for reparations paid from Germany to Italy is very vague, and mostly based on the rules of the German Foundation; which did not operate with Italian consent. Italian courts allowed cases against Germany to be heard and specifically the Italian Supreme Court upheld the ruling in the *Ferrini* case; advocating civil suits brought against foreign states by individuals.

STATEMENT OF JURISDICTION

The Italian Supreme Court has the jurisdiction to hear such cases based on Article 12 of the United Nations Convention on

Jurisdictional Immunities of States and Their Property which states that “a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to pecuniary compensation for death or injury to the person, or damage to or loss of tangible property, caused by an act or omission which is alleged to be attributable to the State.”

ARGUMENTS

I. Germany, being responsible for the human rights violations of World War II, is not justified in denying claims brought against it by those harmed physically or fiscally by the actions of the Third Reich.

II. Due to the fact that the United Nations Convention on Jurisdictional Immunities of States and Their Property has not reached the required number of signatories it cannot apply to the cases such as the *Ferrini* case and any following cases until it is ratified; thus Germany cannot use it to claim immunity in Italian courts.

III. In this circumstance, using the Convention for the Peaceful Settlement of Disputes does not apply because it violates the Convention for the Protection of Human Rights and Fundamental Freedoms, nullifying any claim to international advocacy.

SUMMARY AND PRAYER FOR RELIEF

The Republic of Italy implores the Court to dismiss the case before it based on the grounds that Germany has no legitimate justification for requesting international advocacy. Italy hopes that the Court will find that matters of the violations of the fundamental rights of its constituents fall well within the jurisdiction of Italy.

Italy prays that the Court will find no violation of the jurisdictional immunities of the state of Germany.