



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

## FIRST SECTION

### DECISION

Application no. 24678/03  
Saverio SAFINA and Others  
against Italy

The European Court of Human Rights (First Section), sitting on 11 April 2023 as a Committee composed of:

Péter Paczolay, *President*,

Gilberto Felici,

Raffaele Sabato, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 24678/03) 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”) on 26 July 2003 by the applicants listed in the appended table (“the applicants”) who were represented by Mr F. Tortorici, a lawyer practising in Palermo;

the decision to give notice of the application to the Italian Government (“the Government”), represented by their former Agent, Mr I. M. Braguglia, and their former co-Agent, Mr N. Lettieri;

the parties’ observations;

Having deliberated, decides as follows:

### SUBJECT MATTER OF THE CASE

1. The case concerns the expropriation of the applicants’ land and the subsequent award for compensation which was calculated on the basis of the classification of the land as agricultural land, which the applicants opposed.

2. The applicants owned a plot of land of approximately 11 hectares in Mazara del Vallo. The land at issue was originally classified as agricultural land by the municipality’s building plan.

3. In 1988, the municipality modified the designation of the land from agricultural land to land for sports infrastructure with a view to building a public shooting range. The Region approved such modification in 1990.

4. In 1991, the land was urgently occupied by the municipality in order to build the shooting range and it was formally expropriated in 1996. The municipality paid the applicants approximately 50 million Italian Lira as expropriation compensation. Such compensation was calculated on the basis of the land's agricultural designation and according to the "agricultural average value" criterion, pursuant to the legislation applicable at the time.

5. The applicants challenged the calculation of the compensation before the Palermo Court of Appeal, arguing that it ought to have been based on the market value of the land. In the applicants' view, this entailed that the land had to be considered as land for sports infrastructure rather than agricultural land.

6. On 13 December 2001, the Court of Appeal, after having sought an independent expert valuation of the land, rejected the applicants' claim. It held that the modification of the land's classification from agricultural to land for sports infrastructure was made exclusively with a view to its subsequent expropriation, which entailed that the compensation had to be calculated according to its former classification, namely agricultural land. It considered that a calculation based on the land's subsequent classification, and thus on its future exploitation by the public authorities, would have given the applicants an undue advantage.

7. The applicants had the intention to appeal to the Court of Cassation. However, they failed to serve the appeal on points of law on the other parties' counsel within the statutory time-limit, as the counsel had relocated. Thus, the judgment of the Court of Appeal became final.

8. The applicants complained, under Article 1 of Protocol No. 1 to the Convention, of a disproportionate interference with their property rights on account of the amount of compensation received for the expropriation of their land. They considered such compensation to be inadequate as, in their view, it had not been calculated according to the classification of the land as land designated to sports facilities.

9. Relying on Article 6 of the Convention, the applicants further complained that the bailiff did not make adequate efforts to find the correct address of the opposing parties' counsel with regard to the service of their appeal on points of law.

## THE COURT'S ASSESSMENT

### **A. Alleged violation of Article 1 of Protocol No. 1 to the Convention**

10. The Court notes at the outset that it does not have to decide on the Government's preliminary objection concerning compliance with the six-month time-limit, since the application is in any event inadmissible on the following grounds.

11. The Court notes that the applicants have not contested that the deprivation of their possessions was in accordance with the law and that it pursued a legitimate aim in the public interest. It remains to be determined whether the interference with their property rights was proportionate.

12. As to compensation, the Court notes, first and foremost, that in the present case the applicants did not complain about the criterion used to calculate the compensation for the expropriation of the land on the assumption that it was of an agricultural nature. Rather, their complaint focused on the fact that compensation was calculated on the basis of its agricultural designation instead of its subsequent classification as land for sports infrastructure, while underlining that the land was no longer classified as agricultural at the time of occupation and expropriation.

13. The Court reiterates that compensation must normally be calculated based on the value of the property at the date on which ownership thereof was lost (see *Guiso-Gallisay v. Italy* (just satisfaction) [GC], no. 58858/00, § 103, 22 December 2009, and *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 258, ECHR 2006-V). The Court has also considered that such value is intrinsically linked to the categorisation or designation of the land at that time, and should not relate to its later designation, attributed to it by State action. Indeed, the Court has found that awarding compensation depending on the nature of the project undertaken by the authorities, something which is not necessarily related to the land's potential, could lead to disparities in treatment of persons (see, *Maria Azzopardi v. Malta*, no. 22008/20, §§ 62-63, 9 June 2022).

14. Turning to the facts of the present case, the Court notes the domestic courts' finding to the effect that the modification of the land's designation had been made with specific regard to the expropriation and the construction of public sports facilities, and that it would have been unfair to calculate the compensation due to the applicants on the basis of a future exploitation of the land (see paragraph 6 above).

15. Thus, while the Court acknowledges that the modification of the land's designation from agriculture to sports infrastructure occurred before the expropriation, so that the latter was formally the designation in force at the time of loss of ownership, it is satisfied that, on the basis of the material in its possession, such modification was inextricably linked to the expropriation and the construction of the public facilities. Accordingly, it does not appear to be unreasonable that the compensation for the expropriation of applicants' land was calculated considering the land as being of an agricultural nature, rather than as land for sports infrastructure. Indeed, without the expropriation, the land would have remained designated as agricultural, thus entailing that the calculation of compensation on the basis of a different – and more valuable – designation would have given the applicants an undue profit (see, *mutatis mutandis*, *Maria Azzopardi*, cited above, §§ 62-63).

16. In view of the foregoing considerations, and since the applicants only complained about the classification of the land for the purposes of compensation, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

**B. Other alleged violations**

17. The applicants also raised a complaint under Article 6 of the Convention (see paragraph 9 above). The Court has examined that part of the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, this complaint either does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

18. It follows that this part of the application must also be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 11 May 2023.

Liv Tigerstedt  
Deputy Registrar

Péter Paczolay  
President

SAFINA v. ITALY DECISION

APPENDIX

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Saverio SAFINA	1946	Italian	ROME
2.	Antonina SAFINA	1952	Italian	MAZARA DEL VALLO
3.	Vita SAFINA	1948	Italian	MAZARA DEL VALLO