FIRST SECTION

DECISION

Application no. 330/05
Lucia Angela CARZEDDA

against Italy

The European Court of Human Rights (First Section), sitting on 30 June 2022 as a Committee composed of:

 Alena Poláčková, *President,* Raffaele Sabato, Davor Derenčinović, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 27 December 2004,

Having deliberated, decides as follows:

1. FACTS AND PROCEDURE

The applicant, Ms Lucia Angela Carzedda, was born in 1945. She was represented by Mr N. Paoletti, a lawyer practising in Rome.

The applicant’s complaint under Article 1 of Protocol No. 1 to the Convention concerning expropriation of her land was communicated to the Italian Government (“the Government”).

On 6 July 2018 the Government informed the Court that the applicant had agreed with the expropriating authority, “Consorzio Industriale Provinciale Nord Est Sardegna Gallura” (CIPNES), to settle the matter at the domestic level against the payment of 150,000 euros (EUR). The Government requested the Court to strike out the application in accordance with Article 37 of the Convention.

By two letters of 18 November 2019 and 29 January 2020, the applicant stated that she had only been paid in part, notwithstanding the expiration of the agreed timeframe for the payment and asked the Court to continue the examination of her application.

By two letters of 5 November 2018 and 19 November 2019, the Government explained that the payment had been interrupted under section 48bis of Presidential Decree 602/1973, which provides that, for any payment exceeding EUR 5,000, public authorities and State-owned companies must verify, before proceeding with such a payment, whether the recipient has outstanding tax debts. The Government underlined that, in the case at issue, the Revenue Agency submitted documentation to the effect that the applicant had accrued tax debts amounting to EUR 255,655.04.

The applicant, while not contesting the existence of the tax debts exceeding what was due to her by the expropriating authority, insisted that the Consortium was nonetheless under an obligation to fulfil the terms of the agreement.

1. THE LAW

The Court considers at the outset that, as the applicant gave a clear indication that she intended to pursue her application, sub-paragraph (a) of Article 37 § 1 is not applicable. That does not, however, rule out the possibility of applying sub-paragraphs (b) and (c), the applicant’s consent not being a prerequisite for their application (see *Akman v. Turkey* (striking out), no. 37453/97, ECHR 2001-VI).

In order to conclude that the matter has been resolved within the meaning of Article 37 § 1 (b) and that there is therefore no longer any objective justification for the applicant to pursue her application, the Court considers that it must examine, firstly, whether the circumstances complained of directly by the applicant still obtain and, secondly, whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed. This approach reflects the structure of the Convention’s supervisory machinery, which provides both for a reasoned decision or judgment as to whether the facts in issue are compatible with the requirements of the Convention (Article 45), and, if they are not, for the award of just satisfaction (Article 41).

The Court notes that the applicant has agreed to a settlement which satisfies to a large extent the claims formulated under the Convention and that, in the text of the agreement, she explicitly waived all further proceedings concerning those claims which are not covered by the agreement in question, including proceedings before the Court (see, *mutatis mutandis, Condominio Porta Rufina N. 48 di Benevento v. Italy* (dec.), no. 45854/99, § 19, 7 January 2014). It considers that this settlement is inspired by respect for human rights as recognised by the Convention.

The Court acknowledges, as pointed out by the applicant, that the agreement has been only partly fulfilled by the domestic authorities. Nevertheless, this has been the consequence of the applicant’s tax debts towards the State which exceed her credit under the domestic agreement.

In the light of the foregoing and taking into account that the existence of the debt was not contested by the applicant, the Court considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application under Article 37 § 1 *in fine,* insofar as it related to the applicant’s complaint under Article 1 of Protocol No. 1.

Accordingly, the application should be struck out of the list as regards the complaints concerning Article 1 of Protocol No. 1.

The applicant also raised a complaint under Articles 13 of the Convention.

The Court has examined 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.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

*Decides* to strike the application out of its list of cases as regards the complaints under Article 1 of Protocol No. 1;

*Declares* the remainder of the application inadmissible.

Done in English and notified in writing on 21 July 2022.

 Viktoriya Maradudina Alena Poláčková
 Acting Deputy Registrar President