FIRST SECTION

DECISION

Application no. 61126/08  
Maria FASANO and Clementina FASANO

against Italy

(see appended table)

The European Court of Human Rights (First Section), sitting on 10 March 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 29 November 2008,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases, and the applicants’ replies to this declaration,

Having deliberated, decides as follows:

1. FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants were represented by Mr A. Centola, a lawyer practising in Naples.

The applicants’ complaint under Article 1 of Protocol No. 1 to the Convention concerning the deprivation of their land through the application of the constructive-expropriation rule (“*accessione invertita*” or “*occupazione acquisitiva*”) by the domestic courts was communicated to the Italian Government (“the Government”).

The Government submitted a declaration with a view to resolving the issues raised by this complaint. They further requested the Court to strike out the application.

The Government acknowledged that there had been a violation of the applicants’ rights guaranteed by the provisions of the Convention relied on by the applicants. They further offered to pay the applicants the amount detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be payable within three months from the date of notification of the Court’s decision. In the event of failure to pay this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the case.

The applicants informed the Court that they agreed to the terms of the declaration.

1. THE LAW

The Court finds that, following the applicants’ express agreement to the terms of the declaration made by the Government, the case should be treated as a friendly settlement between the parties.

It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and the Protocols thereto and finds no reasons to justify the continued examination of the application.

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

*Decides* to strike the application out of its list of cases in accordance with Article 39 of the Convention.

Done in English and notified in writing on 31 March 2022.

Viktoriya Maradudina Alena Poláčková  
 Acting Deputy Registrar President

APPENDIX

Application raising complaint under Article 1 of Protocol No. 1 to the Convention

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Application no. Date of introduction | Applicant’s name  Year of birth | Representative’s name and location | Date of receipt of Government’s declaration | Date of receipt of applicant’s acceptance | Amount awarded for pecuniary and non‑pecuniary damage and costs and expenses  jointly to the applicants  (in euros)[[1]](#endnote-1) |
| 61126/08  29/11/2008 | **Maria FASANO**  1944    **Clementina FASANO**  1943 | Centola Angelo  Naples | 01/12/2021 | 03/01/2022 | 28,339 |

1. Plus any tax that may be chargeable to the applicants. [↑](#endnote-ref-1)