FIRST SECTION

DECISION

Application no. 38589/06  
Giuliano SILVESTRI and Milena DEMIANCOKOVA  
against Italy

(see appended table)

The European Court of Human Rights (First Section), sitting on 7 April 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 22 September 2006,

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. They were represented by Mr G. Romano, a lawyer practising in Rome.

The applicants’ complaints 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 were communicated to the Italian Government (“the Government”).

The Court was informed that the first applicant, Mr Silvestri, had died after the notification of the case to the Government (see the appended table). His heirs stated that they wished to pursue the proceedings. The Government did not object to the heirs’ *locus standi*.

The Government submitted a declaration with a view to resolving the issues raised by these complaints. 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 offered to pay jointly to the two 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 applicant party informed the Court that they agreed to the terms of the declaration.

1. THE LAW

The Court firstly takes note of the information regarding the death of the first applicant and the wish of his heirs to continue the proceedings in his stead, as well as the absence of an objection on the Government’s part to their standing. Therefore, the Court considers that the heirs of Mr Silvestri, as indicated in the table below, have a legitimate interest in pursuing the application. For practical reasons the Court will, however, continue to refer to Mr Silvestri as the applicant in the present decision.

The Court further finds that, following the applicant party’s 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* that the heirs of the late applicant, Mr Silvestri, have *locus standi* in the proceedings;

*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 5 May 2022.

Viktoriya Maradudina Alena Poláčková  
 Acting Deputy Registrar President

APPENDIX

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

(constructive expropriation)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 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 applicants’ acceptance | Amount awarded for pecuniary and non-pecuniary damage and costs and expenses  jointly to the applicants  (in euros)[[1]](#endnote-1) |
| 38589/06  22/09/2006 | **Giuliano SILVESTRI**  1924  Died on 30/06/2018  **Heirs:**  Gabriele SILVESTRI  1968  Germana SILVESTRI  1965  Enrica SILVESTRI  1971  Milena DEMIANCOKOVA  1947  **Milena DEMIANCOKOVA**  1947 | Romano Giovanni  Rome | 10/12/2021 | 05/01/2022 | 2,910,553.46 |

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