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

FOURTH SECTION

DECISION

Application no. 24338/21
Joan Mary CILIA and Emanuel CILIA
against Malta

The European Court of Human Rights (Fourth Section), sitting on 26 August 2025 as a Committee composed of:

Faris Vehabović, *President*,
Lorraine Schembri Orland,
Sebastian Răduleţu, *judges*,

and Veronika Kotek, *Acting Deputy Section Registrar*,

Having regard to:

the application (no. 24338/21) against the Republic of Malta lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 7 May 2021 by two Maltese nationals, Ms Joan Mary Cilia and Mr Emanuel Cilia ("the applicants"), who were born in 1958 and 1959 respectively, live in Ħamrun and were represented by Dr N. DeBono, a lawyer practising in Valletta;

the decision to give notice of the complaint concerning Article 1 of Protocol No. 1 to the Convention to the Maltese Government ("the Government"), represented by their Agents, Dr C. Soler, State Advocate, and Dr J. D'Agostino, Advocate at the Office of the State Advocate, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns a unilaterally imposed lease under Act XXIII of 1979 amending Chapter 158 of the Laws of Malta (hereinafter "the Ordinance") affecting the first applicant's property no. 243, Vangius, Flat 2, Triq Qrejten, Ħamrun, as of June 2003. The first applicant acquired the property in its entirety by a contract of division in September 2014. Before that she owned a quarter undivided share as of 1982, and three quarters

undivided share as of 2013, resulting from parts which she inherited following her parents' respective demise. The second applicant is her husband. By way of a contract dated 31 May 2004 the owners and the tenants came to an agreement that the annual rent payable was to be approximately 652 euros (EUR) for the first year, and approximately EUR 815 for the subsequent five years. By another contract in 2009, following amendments to the law, they agreed that the lease was being renewed for a period of ten years at the controlled annual rent of EUR 1,072.

2. In 2019 the applicants lodged constitutional redress proceedings complaining that the application of Article 12 of the Ordinance was in breach of their property rights. They limited their claims to 2018, the applicants having instituted proceedings before the Rent Regulation Board in 2019 consequent to amendments to the Ordinance (see *Cauchi v. Malta*, no. 14013/19, § 22, 25 March 2021). On the basis of the court-appointed expert's report, the annual market rent payable for the period 2003-2007 amounted to EUR 2,935, that between 2008-2012 amounted to EUR 4,200, that between 2013-2017 to EUR 5,160, that in 2018 to EUR 7,920, and that in 2019 to EUR 9,240.

3. By a judgment of 8 April 2021 the Civil Court (First Hall) in its constitutional competence, considering that the applicants and their predecessor in title had no real choice when entering the contract and setting the rents, found a violation of Article 1 of Protocol No. 1 to the Convention and awarded EUR 18,900 in pecuniary damage (considering it appropriate to award 50% of that calculated by the expert for the period 2014-2019) and EUR 2,500 in non-pecuniary damage. According to the court, it was relevant that the first applicant became owner of the property only in 2014 (date when she could dispose of the property in the way she wished), and prior to that she owned it with others, thus it was only damage as of 2014 which was due and from January 2014 to 2019 the expert had estimated rental losses at EUR 37,800.

4. No costs were to be paid by the applicants. None of the parties appealed.

5. The applicants complained under Article 1 of Protocol No. 1 to the Convention that they remained victims of the violation upheld by the domestic court.

THE COURT'S ASSESSMENT

A. Preliminary Considerations

6. Given the uncalled-for submissions of the parties, it is opportune to note that the only complaint notified to the Government was that under Article 1 of Protocol No. 1 to the Convention, the remainder of the application having been declared inadmissible by the President acting in a single-judge

formation at communication stage (see Rule 27A § 2(a) and Rule 54 §§ 2(b) and 3 of the Rules of Court).

B. Alleged Violation of Article 1 of Protocol No. 1 to the Convention

7. The Court refers to its general principles concerning victim status and its established case-law in cases similar to the present one (see, among many other authorities, *Apap Bologna v. Malta*, no. 46931/12, §§ 41, 43, 48 and 82, 30 August 2016).

8. Firstly, the Court notes that, contrary to the Government's belief, in the present case the domestic court has not distinguished the status of the first applicant, as owner of the property at issue (which she inherited), and the second applicant who is her husband. The Court will likewise not make any such distinction which is based on the applicable domestic law and the matrimonial regime of the applicants (see *Vassallo v. Malta* [Committee], no. 52795/20, § 7, 12 September 2023). This is even more so given that there is no real dispute that while the property, which the first applicant inherited, forms part of her paraphernal property, the fruits of that property (the rent in the present case) would form part of the community of acquests, unless otherwise established (Article 1320 of the Civil Code). The applicants submitted that this was their situation, and nothing has been brought to the Court's attention which could shed doubt on that statement and the findings of the domestic court. The Government's objection in this respect is therefore dismissed.

9. In the present case the domestic court acknowledged the violation of Article 1 of Protocol No. 1 to the Convention but awarded compensation only as of 2014 (see paragraph 3 above) when the first applicant acquired the property by contract of division (see paragraph 1 above). It is unclear from the application filed before the domestic court whether the applicant was also complaining in relation to the period during which her ancestors had been affected (contrast *Grima and Others v. Malta*, [Committee], no. 18057/20, §§ 3-4, 14 November 2023). In any event it appears that the domestic court was not of that opinion and the Court is ready to accept that assessment in the circumstances of the present case.

10. However, the domestic judgment provides no legal explanations on the reasons grounding the decision to not award compensation prior to the date of the contract of division (i.e., prior to 2014, see paragraph 3 above). The Government argued that the applicant had no possession prior to that date and relied on domestic case-law concerning the impossibility to transfer property inherited in common (undivided shares) until the contract of division is signed. However, the Court considers the possibility of transferring property as being unrelated to a title to the property and the issue of perceiving rent over the property during such time. Moreover, domestic case-law also shows that a contract of division is declaratory not

transactional. In any event, the Court observes that, in circumstances such as those of the present case, other than the ownership title, what is relevant for assessing the complaint and determining compensation is the date when the first applicant obtained title to the usufruct over that property (compare, for example, *Tabone v. Malta* (dec.) [Committee], no. 23107/20, § 12, 28 March 2023). From the documents in the casefile, it transpires that the applicant's mother had full usufruct over the entire property until her demise (January 2013). As to the period thereafter, the Court observes that Article 946 of the Maltese Civil Code provides that after partition each co-heir is deemed to have succeeded alone and directly to all the property comprised in his/her share, and never to have had the ownership of the other hereditary property. It therefore transpires that the applicant was entitled to the usufruct (the rent in this case), during this latter period. Thus, in the absence of any relevant submissions by the Government, there was no reason for the domestic court to exclude the compensation for the period following the mother's demise (January 2013) until the property was finally assigned to the first applicant (September 2014) (compare *Anastasi and Others v. Malta* [Committee], no. 49102/19 and 2 others, § 17, 29 September 2022, and *Radmilli v. Malta* [Committee], no. 28711/19, § 19, 13 January 2022).

11. However, the Court observes that the domestic court awarded compensation until 2019 (which had a significantly higher valuation to that of previous years) despite the applicants having limited their claims to 2018 (see paragraph 2 above). In that light, bearing in mind the Court's practice in awarding compensation in similar cases (see *Cauchi*, cited above, §§ 102-07) and the relevant valuations, the Court considers that an adequate amount of compensation was awarded in respect of both pecuniary and non-pecuniary damage for the relevant period (compare *Bartolo Parnis and Others v. Malta* (dec.), nos. 49378/18 and 3 others, § 48, 24 March 2020). Moreover, those sums were not reduced by any order to pay costs (see, *a contrario*, *Zammit and Vassallo v. Malta*, no. 43675/16, § 42, 28 May 2019, and *Portanier v. Malta*, no. 55747/16, § 24, 27 August 2019).

12. It follows that the redress provided by the domestic court offered sufficient relief to the applicants, and in the circumstances of this case, where the applicants' claims were limited to 2018 (see paragraph 2 above), the Court considers that they have lost their victim status in respect of their complaint under Article 1 of Protocol No. 1 to the Convention (compare *Deguara Caruana Gatto and Gera v. Malta* (dec.), no. 20064/21, 23 May 2023). The Government's objection in this respect is therefore upheld.

13. This complaint is therefore incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 18 September 2025.

Veronika Kotek Acting Deputy Registrar	Faris Vehabović President