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

FIRST SECTION

DECISION

Application no. 59906/19
Raimondo SILVERI
against Italy

The European Court of Human Rights (First Section), sitting on 21 May 2026 as a Committee composed of:

Frédéric Krenc*, President*,
Raffaele Sabato,
Alain Chablais*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to the above application lodged on 7 November 2019,

Having regard to the declaration submitted by the Italian Government on 4 June 2025 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Raimondo Silveri, is an Italian national, who was born in 1968 and lives in Gavorrano. He was represented before the Court by Ms L. Coccoluto, a lawyer practising in Porto Santo Stefano.

2. The Italian Government ("the Government") were represented by their Agent, Mr L. D'Ascia, *Avvocato dello Stato*.

3. The applicant, a zoological guard, was committed to trial with the charge of unlawful exercise of public authority (*usurpazione di pubbliche funzioni*) under Article 347 of the Criminal Code for carrying out administrative checks on hunters of wild animals between 2011 and 2012. The prosecution argued that the applicant in his functions was only authorised to exercise control over domestic animals under section 6(2) of Law 189/2004 (Provisions concerning the prohibition of ill-treatment of animals and their use in unlawful fights or unauthorised competitions).

4. By a judgment of 19 December 2014, the Grosseto District Court acquitted the applicant on the grounds that the alleged facts had never

occurred (*perché il fatto non sussiste*), as section 27 of Law no. 157/92 (Law on the Protection of Wild Species) also granted zoological guards supervisory functions in relation to hunting.

5. By a judgment of 2 October 2018, the Florence Court of Appeal reversed the first-instance judgment and sentenced the applicant to one month's imprisonment. It considered that the two provisions gave rise to two separate categories of zoological guards and that the applicant could therefore only carry out checks on domestic animals within the meaning of section 6(2) of Law no. 189/2004.

6. By a judgment of 7 May 2019, the Court of Cassation dismissed an appeal on points of law lodged by the applicant. It noted that two opposing lines of case-law had developed concerning the interpretation of section 6 of Law no. 189/2004 as to whether the scope of the powers of the zoological guards also extended to animals other than domestic animals (Court of Cassation's judgment no. 28727 of 19/07/2011), or not (Court of Cassation's judgment no. 23631 of 09/04/2008). The Court of Cassation deemed it more appropriate to adhere to the second line of case-law.

7. Before the Court, the applicant complained under Article 7 of the Convention of the unforeseeability of his conviction. He argued, in particular, that domestic case-law at the time of the facts had clearly established the possibility of zoological guards performing those checks on hunters.

8. He further complained under Article 13 of the Convention that the Court of Cassation had arbitrarily failed to address the merits of an essential argument concerning the functions attributed to zoological guards by Law no. 157/1992, read in conjunction with Royal Decree no. 773/1031 (the Consolidated Law on Public Safety – *Testo Unico delle leggi di pubblica sicurezza*).

9. The application was communicated to the Government. At that stage, the applicant's complaint under Article 13 of the Convention was considered to fall under Article 6 § 1.

THE LAW

10. After attempts to reach a friendly settlement had failed, by a letter of 4 June 2025, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

11. The declaration stated as follows:

> "With the present declaration the Italian Government recognize that the Applicant was subjected to the conventional violations as claimed, according to the principles expressed by the Court of Human Rights in this context.
>
> The Italian Government, with this declaration, offer to pay the sum of 6.000,00 euros to the Applicant to cover any and all pecuniary and non-pecuniary damage and the sum

of 2.000,00 euros to cover any and all costs and expenses, plus any tax that may be chargeable to the Applicant.

...

The Government respectfully invite the Court to declare that it is not necessary to prosecute the exam of the violations alleged by the Applicants [*sic*] and dismiss the cases [*sic*] in application of Article 37 of the Convention ...

The Government will proceed to pay the sums offered with the present declaration within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases ..."

12. By a letter of 23 May 2025, the applicant submitted his intention to accept the terms of the unilateral declaration on the condition that it could be used in review proceedings at domestic level with the aim of demonstrating the applicant's innocence.

13. On 29 August 2025 the Court invited the Government to submit comments concerning the effects of a unilateral declaration or a friendly settlement on the possibility of obtaining a reopening of the domestic proceedings, in the light, in particular, of Article 628 *bis* of the Italian Code of Criminal Procedure. The provision reads as follows:

"1. The convicted person and the person subject to a security measure may request the Court of Cassation to set aside the criminal judgment or the criminal conviction pronounced against them, to order the reopening of the proceedings or, in any event, to take the necessary measures to eliminate the prejudicial effects resulting from the violation established by the European Court of Human Rights, when they have [lodged an application with the Court] for the determination of a violation of the rights recognised by the Convention ... or by the Additional Protocols to the Convention and the ... Court has upheld the application with a final decision, or has ordered that the application be struck out of the list of cases in accordance with Article 37 of the Convention following the unilateral recognition of the violation by the State."

14. In reply, in a letter of 23 September 2025, the Government submitted that, in the light of the text of the domestic provision, the condition set out by the applicant had been fulfilled and they requested the Court to strike out the case in accordance with Article 37 of the Convention.

15. In a letter of 24 September 2025, the Government further specified:

"... should the Applicant accept the Government's unilateral declaration, it would constitute a friendly settlement and the case be removed from the list of cases pursuant to Article 39 of the ECHR.

The Government point out that Article 628 *bis* of the Italian Code of Criminal Procedure provides for the possibility of requesting the reopening of proceedings only if there is a final decision to uphold the application or to dismiss the appeal from the register, pursuant to Article 37 of the ECHR, following unilateral acknowledgement of the violation by the State.

At present, there are no case-law precedents clarifying whether the possibility of reopening proceedings pursuant to Article 628 *bis* can also extend to cases of unilateral declarations followed by the cancellation of proceedings pursuant to Article 39 of the Convention, due to the acceptance of the appellant."

16. The Court reiterates that Article 37 of the Convention provides that the Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court, in particular, to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the applications".

17. It also reiterates that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

18. An application may also be struck out of the Court's list in accordance with Article 39 of the Convention when a unilateral declaration by a respondent Government is followed by the acceptance of the terms of the declaration by the applicant. In that event, the Court considers that the parties have reached a friendly settlement within the meaning of the above-mentioned provision (see *Cēsnieks v. Latvia* (dec.), no. 9278/06, § 34, 6 March 2012, and *Bakal and Others v. Turkey* (dec.), no. 8243/08, 5 June 2012).

19. In the present case, the Court notes that the applicant made his acceptance of the terms of the Government's unilateral declaration conditional on the possibility of a reopening of the contested domestic proceedings.

20. In this regard, the Court first reiterates that it has already held that the reopening of proceedings before the domestic courts is the most appropriate, if not the only, means of ensuring *restitutio in integrum* and redressing findings of violations under Article 7 of the Convention (see, for example, *Yüksel Yalçınkaya v. Türkiye* [GC], no. 15669/20, §§ 407-12, 26 September 2023; *Demirhan and Others v. Türkiye*, nos. 1595/20 and 238 others, § 53, 22 July 2025; and *Dragotoniu and Militaru-Pidhorni v. Romania*, nos. 77193/01 and 77196/01, § 55, 24 May 2007).

21. The Court further notes that Article 628 *bis* of the Code of Criminal Procedure provides for the possibility of requesting the revocation of domestic judgments or the reopening of domestic proceedings in the event that, *inter alia*, a final decision has been taken to strike the application out of the Court's list of cases in accordance with Article 37 of the Convention, following a unilateral acknowledgment of the violation by the State. The Court observes that, while Article 628 *bis* of the Code of Criminal Procedure refers to a "unilateral acknowledgment of the violation" by the State, it does not mention Article 39 of the Convention.

22. Moreover, the Court takes note of the Government's submission that there is currently no domestic case-law concerning the possibility of extending the scope of Article 628 *bis* of the Code of Criminal Procedure to

situations where an application has been struck out of the Court's list of cases in accordance with Article 39 of the Convention because the Government's unilateral declaration was followed by the applicant's agreement on the terms of the declaration.

23. In the light of the foregoing, the Court considers that the condition set by the applicant for accepting the Government's unilateral declaration has not been satisfied. The Court will therefore proceed to examine the declaration for the purposes of Article 37 § 1 (c), in the light of the principles emerging from its case-law, in particular in *Tahsin Acar v. Turkey* ((preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; see also *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

24. The Court has established in a number of cases, including those brought against Italy, its practice concerning complaints of a violation of Article 7 (see, for example, *Yüksel Yalçınkaya*, cited above, §§ 243 et seq., and *Navalnyye v. Russia*, no. 101/15, §§ 58-69, 17 October 2017; compare *Del Río Prada v. Spain* [GC], no. 42750/09, §§ 116-18, ECHR 2013) and Article 6 of the Convention (see, for example, *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, § 85, 11 July 2017; see also, *mutatis mutandis*, *Spasov v. Romania*, no. 27122/14, §§ 84-99, 6 December 2022).

25. Having regard to the nature of the admissions contained in the Government's declaration and to the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

26. Moreover, in the light of the considerations above, and in particular given the clear and extensive case-law on the topic, the Court is satisfied 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 (Article 37 § 1 *in fine*).

27. Lastly, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

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

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 11 June 2026.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President