



## Issues already addressed by authorities in inadmissible land-expropriation case

In its decision in the case of [Sorasio and Others v. Italy](#) (application nos. 56888/16, 57121/16, 57145/16 and 57679/16) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The case concerned the occupation of part of the applicants' agricultural land in Villanova Solaro by the Interregional Agency for the Po River (*Agenzia Interregionale per il fiume Po*) for the building of an embankment, and the court proceedings which followed. That use had been ordered by the Cuneo Prefect. The transfer of property had finally been carried out under Article 42*bis* (a provision introduced following the striking down of a previous provision as unconstitutional) of the Consolidated Law on Expropriations.

The Court held that as the State had acknowledged in substance the violation of the applicants' property rights and had paid appropriate compensation (a sum equivalent to the market value of the land, and the applicants had furthermore received an additional sum for each year that they had been unable to use their property, and a payment in respect of non-pecuniary damage), the applicants could no longer claim to be victims of a violation, and the applications had to be rejected.

### Principal facts

The applicants, Domenica Sorasio, Tommaso Sorasio, Federica Botto and Adriano Giletta are Italian nationals who were born between 1937 and 1963 and live in Villanova Solaro apart from Ms Sorasio, who lives in Moretta (both Piedmont, Italy).

All of the applicants (or their legal predecessors) were owners of agricultural land in Villanova Solaro. In 2004 the Cuneo Prefect ordered that some of the land be expropriated for use by the Interregional Agency for the Po River (*Agenzia Interregionale per il fiume Po* – AIPo) for the building of an embankment.

In February 2006 the order and all orders connected to the building project were set aside by the Higher Public Water Court. Following enforcement proceedings, that court ordered the restitution of the property in its original state from AIPo, or the payment of compensation.

Following the replacement of the previous enabling provision, which was found unconstitutional, a new provision – Article 42*bis* – of the Consolidated Law on Expropriations was introduced. A new order was issued pursuant to the new provisions that the applicants' land be transferred to AIPo. The special commissioner who made the order pointed out, among other factors, that removal of the part of the embankment already built would pose a risk to the inhabitants of Villanova Solaro of flooding, suggesting that compensation be paid by the authorities instead of restitution. Compensation was set at 241,067.20 euros (EUR). Under Article 42*bis*, the applicants were also entitled to additional compensation of 10% above the value of the property in respect of non-pecuniary damage.

The applicants appealed against that order in November 2011 to the Higher Public Water Court, referring to incompatibility with Article 117 of the Italian Constitution and Article 1 of Protocol No. 1 to the Convention, and asserting that this was "indirect expropriation", among other arguments. The Higher Public Water Court found the constitutional arguments manifestly ill-founded, also holding that the special commissioner had gathered evidence correctly, and had balanced the needs of the applicants and of the public appropriately. As regards additional compensation, the court stated that the applicants' claims were generic and not supported by evidence or documents.

An appeal on points of law by the applicants was unsuccessful.

In April 2015 the Constitutional Court found the relevant amendment (Article 42bis) to be constitutional.

## Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 23 September 2016.

Relying on Article 1 of Protocol No. 1 (protection of property) to the European Convention the applicants complained of how they were dispossessed of their property.

The decision was given by a Chamber of seven judges, composed as follows:

Marko **Bošnjak** (Slovenia), *President*,

Alena **Poláčková** (Slovakia),

Latif **Hüseynov** (Azerbaijan),

Péter **Paczolay** (Hungary),

Gilberto **Felici** (San Marino),

Erik **Wennerström** (Sweden),

Raffaele **Sabato** (Italy),

and also Renata **Degener**, *Section Registrar*.

## Decision of the Court

The Court was satisfied that the authorities had acknowledged the breach of the applicants' property rights, referring in particular to the Higher Public Water Court's setting aside the initial 2004 order. It noted that the relevant provision, Article 42 *bis*, had as its aim resolving situations where a public authority had *de facto* possession of immovable property which had been modified without a valid expropriation order, and the provision had been ruled constitutional by the Constitutional Court. It also noted the Government's action report to the Committee of Ministers regarding cases on constructive expropriation (including *Belvedere Alberghiera*, case no. 31524/96, which in 2017 the Committee of Ministers considered closed as regards the execution of the judgment, and 106 other cases concerning indirect expropriation), in which the Government specified that the transfer of the property under Article 42bis had no retroactive effect and highlighted that the previous occupation of the land remained unlawful and as such the landowner had the right to be compensated for both pecuniary and non-pecuniary damage.

The Court was satisfied that the redress obtained by the applicants had been appropriate. They had been paid a sum equivalent to the market value of the land, and they had furthermore received an additional sum for each year that they had been unable to use their property. They had received a supplementary 10% of the value as an award in respect of non-pecuniary damage.

Given the above, the applicants could no longer claim to be victims of a violation of Article 1 of Protocol No. 1, and so the Court rejected the applications.

*The decision is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.