

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

FIRST SECTION

CASE OF IMMOBILIARE BERGAMELLA SECONDA DI CARLO MARIANI & C. S.A.S. AND OTHERS v. ITALY

(Application no. 39536/15)

JUDGMENT

STRASBOURG

24 September 2026

This judgment is final but it may be subject to editorial revision.



In the case of Immobiliare Bergamella Seconda di Carlo Mariani & C. S.a.s. and Others v. Italy,

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

Erik Wennerström*, President*,
Raffaele Sabato,
Alain Chablais*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 39536/15) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 31 July 2015 by four companies registered in Italy ("the applicant companies"), whose details are indicated in the appended table, which were represented by Mr R. Mangia, a lawyer practising in Milan;

the decision to give notice of the application to the Italian Government ("the Government"), represented by their Agent, Mr L. D'Ascia, *Avvocato dello Stato*;

the parties' observations;

Having deliberated in private on 3 September 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The case concerns the adequacy of compensation awarded to the applicant companies for the expropriation of their land.

2. The applicant companies owned a plot of land in Sesto San Giovanni, transferred to them by their founder and sole shareholder Mr Carlo Mariani. On 14 July 1963 the municipality imposed an expropriation-aimed restraint (*vincolo espropriativo*) on the land, since it had been simultaneously designated for implementation of a social housing plan.

3. The plan was approved by the competent Ministry in 1971 and, on 17 January 1972, the authorities took possession of the land.

4. On 21 July 1972 the municipality amended the plan, significantly reducing the building potential of the area.

5. On 21 February 1975 the expropriation order was issued.

6. On 7 May 1986 the competent authority determined, relying on the value of the land at the time of the expropriation order, the amount of compensation offered to the applicant companies.

7. On 22 December 1986 the second, third and fourth applicant companies complained before the Milan Court of Appeal that the value of the land had to be determined without considering the decrease in value resulting from the reduction of building potential imposed in 1972 and that, in any event, the amount awarded had to be adjusted for inflation.

8. Their claims were upheld by the Court of Appeal for the first time in 1992 and, after the case was referred back to it by the Court of Cassation, once again in 2003.

9. On 26 November 2004 the Court of Cassation again quashed the appeal judgment. It held that the decrease in value deriving from the reduction of building potential (see paragraph 4 above) had been necessary to conform the area to revised legislative standards. This amounted to a building restraint (*vincolo conformativo*), which, as a general urban planning policy measure, had to be considered when determining the value of the property for the purposes of awarding compensation for its expropriation.

10. The case was referred to the Court of Appeal, which requested a court-appointed expert to assess the value of the land and the amount due in respect of adjustment for inflation.

11. On 9 May 2013 the Court of Appeal addressed at the outset the request for intervention in the proceedings meanwhile submitted by the first applicant company, and declared it inadmissible. It observed, in particular, that the said company had not been the addressee of the expropriation order and that its interests had been, until that moment, represented by the second applicant company. In accordance with the Court of Cassation's finding, the Court of Appeal relied on the value of the land at the time of the expropriation (see paragraph 9 above) as established by the court-appointed expert, and awarded 618,652.04 euros (EUR) in respect of compensation for the occupation and expropriation of the land. It also upheld the claim for adjustment for inflation for the period between 1975 and 1990, thus awarding the further amount of EUR 2,742,045.14. For the subsequent period, the Court of Appeal awarded the higher sum (amounting to EUR 564,110.26) resulting from the application of statutory interest on the total amount, calculated on the basis of the legislative provision that had meanwhile entered into force.

12. On 25 February 2015 the Court of Cassation varied the judgment, considering that the adjustment for inflation was only applicable to the period between 1986 and 1990. It considered, in particular, that it was only once the applicant companies had challenged, in 1986, the compensation offered to them (see paragraph 7 above) that the expropriating authority was "at fault" and, thus, had caused damage that had to be compensated. It also decided that each party was to bear its own costs of proceedings and thus held that the applicant companies had to return the amount of 149,838.25 euros (EUR) which they had previously obtained as reimbursement of their own costs.

13. The applicant companies complained, under Article 1 of Protocol No. 1 to the Convention, that the conduct of the domestic authorities during unreasonably long proceedings had rendered the compensation awarded inadequate and that, in any event, they had not yet received the full payment of the amounts awarded.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1

A. Admissibility

14. While the Government have not raised any objection concerning victim status, the Court is not prevented from examining that issue of its own motion (see *Rustamkhanli v. Azerbaijan*, no. 24460/16, § 27, 4 July 2024).

15. The Court observes that the first applicant company intervened in the last phase of the domestic proceedings, but its intervention was declared inadmissible by the Court of Appeal (see paragraph 11 above), which observed that that company had not been the addressee of the expropriation and that its interests had been, until that moment, represented by the second applicant company. The first applicant company did not lodge an appeal on points of law against the above-mentioned finding.

16. The Court agrees that the first applicant company was not the addressee of the impugned expropriation and was not a party to the domestic proceedings (see, *mutatis mutandis*, *The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, §§ 203-06, 2 May 2024).

17. Accordingly, the Court finds that the application, in so far as it has been lodged by the company Immobiliare Bergamella Prima di Carlo Mariani & C. S.a.s., is 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.

18. The Court further notes that the application, in so far as it was lodged by the second, third and fourth applicant companies (hereinafter "the applicant companies"), is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

19. The relevant domestic law and practice can be found in *Scordino v. Italy (no. 2)* (no. 36815/97, §§ 25-45, 15 July 2004).

20. In the present case, it has not been disputed by the parties that there was a deprivation of possessions, within the meaning of the second sentence of Article 1 of Protocol No. 1, which was carried out in accordance with the law and in the public interest. The Court sees no reason to disagree.

21. The issue at hand is whether the expropriation satisfied the requirement of proportionality, considering that the adequacy of the compensation would be diminished if paid without reference to circumstances liable to reduce its value, such as the lapse of a considerable period of time (see *Chinnici v. Italy (no. 2)*, no. 22432/03, § 43,

14 April 2015), in particular in the event of abnormally lengthy delays in administrative or judicial proceedings (see *Schembri and Others v. Malta*, no. 42583/06, § 38, 10 November 2009).

22. The applicant companies asserted that the conduct of the authorities, before and after the expropriation, rendered the compensation inadequate.

23. As regards the period before the expropriation, the Court notes that there were unreasonable delays between the imposition of the expropriation-aimed restraint in 1963 (see paragraph 2 above), the moment when the authorities took possession of the land in 1972 (see paragraph 3 above), and the expropriation order in 1975 (see paragraph 5 above).

24. At the material time, the domestic legal framework did not set out any time-limits in respect of the effects of an expropriation-aimed restraint, a situation which was declared unconstitutional in 1966 (see *Scordino*, cited above, §§ 29-32). In December 1968 the legislator established that expropriation-aimed restraints ceased to be effective after five years if the land had not been expropriated or if no measures had been taken to implement the plan and it also provided for a five-year extension for existing restraints (ibid., §§ 34-35). Considering that, as acknowledged by the Constitutional Court, individuals subjected to expropriation proceedings did not, at the material time, have any remedy by which inaction on the part of the authorities could be challenged in courts (ibid., § 40), the Court cannot but conclude that the applicant companies found themselves in a prolonged situation of uncertainty (see *Elia S.r.l. v. Italy*, no. 37710/97, § 83, ECHR 2001-IX, and *Scordino*, cited above, § 98).

25. The Court thus considers that – while in the specific circumstances of the case the decrease in value deriving from the reduction of building potential (see paragraph 12 above) does not appear, in itself, arbitrary or manifestly unreasonable (see *Campanile and Others v. Italy* (dec.), no. 32635/05, § 31, 15 January 2013) – the compensation awarded was rendered inadequate by the exclusion of any compensation for the inability to use the land between the imposition of the expropriation-aimed restraint and its physical occupation by the authorities.

26. As regards the subsequent period, the Court also notes that there were unreasonable delays between the expropriation order of February 1975 (see paragraph 5 above), the determination of the compensation offered in May 1986 (see paragraph 6 above), and the final decision, in July 2015, in the proceedings instituted by the applicant companies (see paragraph 12 above).

27. Reiterating that, in such situation the initial amount awarded in respect of compensation must be updated to offset the effects of inflation (see *Chinnici*, cited above, § 43), the Court observes that the applicant companies complained that their request in that regard was upheld only for the period following the institution of proceedings in December 1986. The Court of Cassation considered that it was only once the applicant companies had

challenged the compensation offered that the expropriating authority was "at fault" and, thus, had caused damage that had to be compensated (see paragraph 12 above).

28. However, reiterating once again that, at the material time, there was no remedy available to the applicant companies against inaction on the part of the authorities (see *Scordino*, cited above, § 40), the delay of more than 11 years between the expropriation order and the institution of proceedings was entirely attributable to the domestic authorities. The Court thus considers that the failure to adjust the amount for inflation for the period between 1975 and 1986 placed a disproportionate burden on the applicant companies.

29. As regards the applicant companies' claim that they had not yet received the full payment of the amounts awarded domestically, the Court notes that the parties agreed that the applicant companies received payment in the amount of EUR 1,219,336.03. It further notes that the Government submitted that the remaining amount (around EUR 70,000) had been offset against the sum that the applicant companies had been ordered to reimburse (see paragraph 12 above). Noting that the Court has no jurisdiction to make an order exempting compensation from attachment (see *Velikova v. Bulgaria*, no. 41488/98, § 99, ECHR 2000-VI), it considers that the applicant companies received the sums awarded domestically.

30. The Court considers that the compensation obtained at the domestic level, in so far as it did not make allowance for the additional damage caused by unreasonable delays on the part of the authorities, was not capable of compensating for the loss of property.

31. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. The applicant companies claimed, in respect of pecuniary damage, the amounts that the expert report (see paragraph 10 above) estimated were due in respect of compensation for lawful occupation and loss of property, inflation adjustment and statutory interest, amounting in total to EUR 24,750,177.95, should the Court accept that compensation had to be calculated relying on the value of the land before the reduction of building potential, or EUR 5,299,781, if compensation was to be based on the value of at the time of the expropriation. They also claimed EUR 1,000,000 in respect of additional pecuniary and non-pecuniary damage. Lastly, they claimed EUR 149,838.25 in respect of costs and expenses incurred in the domestic proceedings and EUR 114,192 in respect of costs and expenses incurred before the Court.

33. The Government contested the claims.

34. In view of its findings (see paragraph 25 above), the Court dismisses the claims based on the need to recalculate the compensation by relying on

the value of the land before the reduction of building potential. However, it agrees that the applicant companies must be compensated for the impossibility of disposing of the land (see *Scordino*, cited above, §§ 121-23) during the period between the imposition of the expropriation-aimed restraint in July 1963 and its occupation by the authorities in January 1972, and must be awarded the inflation adjustment of the sum awarded domestically (see *Chinnici*, cited above, § 63) for the period between the expropriation order in February 1975 and the institution of proceedings in December 1986. Having regard to the criteria established in its case-law, the Court awards the applicant companies jointly EUR 3,593,213 in respect of pecuniary damage, plus any tax that may be chargeable on that amount.

35. In so far as the applicant companies claimed a further amount in respect of additional pecuniary and non-pecuniary damage, the Court notes that, from the perspective of pecuniary damage, the claim is entirely speculative. It, however, agrees that the applicant companies must have sustained a certain degree of non-pecuniary damage and, ruling on an equitable basis, awards them jointly EUR 10,000, plus any tax that may be chargeable on that amount.

36. Lastly, the Court reiterates that, according to its case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession, the Court finds it reasonable to award the applicant companies jointly EUR 50,000, covering costs under all heads, plus any tax that may be chargeable to them.

37. The Court dismisses the remainder of the claims for just satisfaction.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints brought by the first applicant company inadmissible as incompatible *ratione personae* with the provisions of the Convention;

2. *Declares* the complaints brought by the second, third and fourth applicant companies admissible;

3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention in respect of the second, third and fourth applicant companies;

4. *Holds*
   (a) that the respondent State is to pay jointly to the second, third and fourth applicant companies, within three months:

i. EUR 3,593,213 (three million five hundred and ninety-three thousand two hundred and thirteen euros), plus any tax that may be chargeable, in respect of pecuniary damage;
ii. EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
iii. EUR 50,000 (fifty thousand euros), plus any tax that may be chargeable to the applicant companies, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant companies' claim for just satisfaction.

Done in English, and notified in writing on 24 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Deputy Registrar

Erik Wennerström
President

APPENDIX

No.	Applicant company's name	Referred to in the judgment as	Year of registration Place of registered office Nationality	Legal representative of the company
1.	IMMOBILIARE BERGAMELLA PRIMA DI CARLO MARIANI & C. S.A.S.	"the first applicant company"	1964 Milan Italian	Fosca Alessandri
2.	IMMOBILIARE BERGAMELLA SECONDA DI CARLO MARIANI & C. S.A.S.	"the second applicant company"	1964 Milan Italian	Erminia Bianchi
3.	IMMOBILIARE BERGAMELLA TERZA DI CARLO MARIANI & C. S.A.S.	"the third applicant company"	1964 Milan Italian	Erminia Bianchi
4.	IMMOBILIARE BERGAMELLA QUARTA DI CARLO MARIANI & C. S.A.S .	"the fourth applicant company"	1964 Milan Italian	Erminia Bianchi