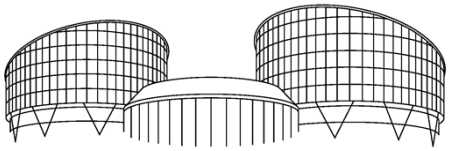

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 47565/22
Franco VENDRAME and Others
against Italy

The European Court of Human Rights (First Section), sitting on 17 March 2026 as a Chamber composed of:

Ivana Jelić*, President*,
Erik Wennerström,
Raffaele Sabato,
Frédéric Krenc,
Davor Derenčinović,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,

and Ilse Freiwirth, *Section Registrar,*

Having regard to the above application lodged on 29 September 2022,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

INTRODUCTION

1. The applicants are two Italian nationals Mr F. Vendrame ("the first applicant"), and Mr P. Vendrame ("the second applicant"), and an Italian company, Società Agricola F.lli Vendrame e C. s.s. ("the applicant company"). Further details are set out in the appendix. They were represented by Mr A. Spizzo, a lawyer practising in Udine.

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

THE FACTS

3. The first and second applicants are the applicant company's managing partners. They are the owners of plots of land located in the municipality of Codroipo on which the applicant company carries out agricultural activities.

4. From 1994 onwards the applicants used the land for harvesting timber – namely poplars. Each planting and replanting of poplar groves required prior authorisation from the competent local authorities, so that the compatibility of that activity with urban-planning regulations could be assessed.

5. In March 2006 the municipality of Codroipo submitted to the Friuli-Venezia Giulia Region (hereinafter "the Region") a proposal for the establishment of a protected natural area (*biotopo*) on its territory, under section 4 of Regional Law no. 42 of 1996.

6. On 23 November 2006 at the request of the Region and under section 8 of Regional Law no. 42 of 1996, the Technical-Scientific Committee for Protected Areas issued a favourable opinion on the creation of the protected area, with some amendments.

7. The Risorgive di Codroipo protected area was established by Decree no. 156/2007 of the President of the Region, which was published in Official Bulletin of the Region no. 25 of 20 June 2007 (see paragraph 29 below).

8. Decree no. 156/2007 of the President of the Region specified that the site included natural and semi-natural habitats and plant species of European interest, in accordance with Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ("the EU Habitats Directive"), as well as botanical species at risk of extinction on the national territory included in the Red Book of Italian Plants. The creation of the protected area therefore pursued the aim of guaranteeing the conservation of the above-mentioned site, in accordance with the EU Habitats Directive.

9. Decree no. 156/2007 of the President of the Region included specific provisions for the conservation of the protected area in question, setting out rules for and limits to human activity within the site. Most notably, section 4, entitled "Agricultural activities", read as follows:

> "In the areas used for agricultural crops at the moment of the establishment of the protected area, the continuation of the existing agricultural activities shall be authorised.
>
> In no circumstances shall it be allowed to plant new specialised tree crops, such as poplars, fruit trees, [or] vines.
>
> As regards existing poplar groves, their use shall be allowed at any time, but it shall be forbidden to replant them".

10. On 24 October 2011 the applicant company requested authorisation from the municipality of Codroipo to replant a poplar grove on the first and second applicants' land.

11. On 11 November 2011 the municipality of Codroipo served the applicant company with a notice of rejection (*preavviso di diniego*), in which it was stated that the plots of land concerned by the request fell within the Risorgive di Codroipo protected area and that the new classification of the land had been incorporated into the general municipal land-use plan (*piano regolatore generale*) by the Codroipo Municipal Council's resolution no. 8 of 4 February 2011.

12. On 28 November 2011 the applicants submitted observations in respect of the rejection notice, arguing that they had only learnt of the existence of the protected natural area and the resulting restrictions on their property via that notice.

13. By a letter of 9 January 2012, the municipality of Codroipo asked the Region for an opinion on the applicants' observations on the rejection notice. In a reply of 13 February 2012, the Region specified that Decree no. 156/2007 of the President of the Region – which had established the protected area – had been published in Official Bulletin of the Region no. 25 of 20 June 2007.

14. The applicants challenged the measures establishing the Risorgive di Codroipo protected natural area before the Friuli-Venezia Giulia Regional Administrative Court.

15. They complained, *inter alia*, about the lack of any payments for the restrictions imposed on the land, which, in their view, had amounted to a *de facto* expropriation.

16. By judgment no. 306 of 19 June 2014, the Friuli-Venezia Giulia Regional Administrative Court dismissed the applicants' claim. The relevant part of the judgment read as follows:

> "The establishment of the Risorgive di Codroipo protected area affected, in fact, a range of assets (and an indistinct plurality of subjects), on the basis of the natural value of the entire area in which they were located. The relevant protection regulations are aimed, in fact, at preserving natural habitats and, where necessary, restoring ecological conditions compatible with the maintenance of threatened natural features.
>
> The resulting restrictions on private property are therefore expressions of the regulatory power (*potere conformativo*) under Article 42, paragraph 2, of the Constitution and circumscribe owners' rights in accordance with the natural characteristics of the property. They do not therefore require compensation to be paid, as they are limitations on the ways in which the property can be enjoyed and used, but do not entail the definitive deprivation/expropriation of the property ...
>
> [T]he owners of plots of land falling within the protected natural area are eligible for both 'incentives aimed at promoting and maintaining biodiversity' and 'compensation, on an equitable basis, for the restrictions imposed on certain activities of economic importance, which are necessary to ensure that these activities do not conflict with the protection requirements of protected areas'. There is therefore no reason to doubt that such measures can adequately safeguard the needs of owners."

17. The applicants appealed to the *Consiglio di Stato* against the judgment.

18. By judgment no. 4311 of 30 May 2022, the *Consiglio di Stato* dismissed the appeal. The domestic court held that the appeal was both inadmissible and, in any event, unfounded.

19. Preliminarily, the *Consiglio di Stato* found *inter alia* that the ground of appeal in which the applicants complained of a violation of international law, including the principles established by the European Court of Human Rights, was inadmissible as raised for the first time in the applicants' appeal in violation of Article 104 § 1 of the Code of Administrative Procedure.

20. The *Consiglio di Stato* further held that the appeal was in any event unfounded. In particular, as regards the matter of compensation, the *Consiglio di Stato* stated that the imposition of restrictions on the applicants' property rights as a result of the new classification of their land in the general municipal land-use plan had not amounted to a *de facto* expropriation. The restrictions had not deprived them of their property rights to such an extent as to have been substantially expropriatory in nature; rather, they had been limited to requiring that the property be used in conformity with its characteristics and the specific context of its location. The *Consiglio di Stato* went on to reiterate the principles set out by the Constitutional Court in judgment no. 276/2000 – namely, that compensation was not due where property rights had been restricted for the purposes of protecting the landscape and the environment, since those restrictions were not of an expropriatory nature. It also highlighted that the European Court of Human Rights, in its case-law, had emphasised the margin of appreciation afforded to national authorities in assessing the general interest, with specific reference to environmental matters, and that the clear distinction between expropriatory and regulatory constraints represented a long-standing line of case-law of the domestic administrative courts.

21. In the meantime, in 2013 the part of the protected area in which the applicants' land was located had also been included in the Risorgive dello Stella Special Area of Conservation (SAC) under the EU Habitats Directive and Friuli-Venezia Giulia Regional Law no. 7 of 21 July 2008 (see paragraphs 30-35 below).

RELEVANT LEGAL FRAMEWORK

A. Relevant EU law

Council Directive 92/43/EEC

22. Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("the EU Habitats Directive") was adopted in 1992.

23. The EU Habitats Directive includes measures for the strict protection of selected species and requires the designation of protected sites for the

selected habitats and species listed in its annexes. Those sites form the Natura 2000 network.

24. Article 6 of the EU Habitats Directive provides:

> "1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.
>
> 2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.
>
> 3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.
>
> 4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.
>
> Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest."

B. Relevant domestic law

1. Presidential Decree no. 357/1997

25. The EU Habitats Directive was transposed into Italian law by Decree no. 357 of the President of the Republic of 8 September 1997, entitled "Regulation implementing Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora". Sections 4 and 7 require regions to adopt appropriate conservation measures and, where necessary, appropriate management plans to protect natural habitats and the habitats of species present in the protected areas.

26. The relevant sections of the Decree read as follows:

Section 4 – Conservation measures

"1. The regions ... shall ensure that appropriate measures are taken to avoid the deterioration of natural habitats and habitats of species, as well as any disturbance of species for which the areas have been designated, in so far as such disturbance could have significant consequences with regard to the objectives of this regulation.

2. The regions ..., on the basis of guidelines for the management of 'Natura 2000' network sites, to be adopted by a decree of the Ministry of the Environment and Land Protection, ... shall adopt, within six months of their designation, the necessary conservation measures for special areas of conservation, including, where appropriate, specific or integrated management plans or other development plans and appropriate regulatory, administrative, or contractual measures that are consistent with the ecological requirements of the natural habitat types listed in Annex A and the species listed in Annex B present on the sites.

2 *bis*. The measures referred to in subsection 1 shall remain in force in the special areas of conservation until the measures provided for in subsection 2 are adopted."

Section 7 – Guidelines for the monitoring, protection, and management of habitats and species

"1. The Ministry of the Environment and Land Protection, by its own decree, ... shall define the guidelines for monitoring and harvesting fauna and flora species protected under this regulation and for related derogations.

2. The regions ..., on the basis of the guidelines referred to in the previous subsection, shall regulate the adoption of appropriate measures to ensure the conservation and monitoring of the conservation status of species and habitats of Community interest, with particular attention to priority species and habitats, and shall notify the ministries referred to in paragraph 1 thereof."

2. Friuli-Venezia Giulia Regional Law no. 42 of 30 September 1996, entitled "Rules on the subject of regional parks and nature reserves"

27. This legislation governs the procedures for establishing regional parks, nature reserves, areas of significant environmental interest and protected natural areas.

28. The relevant sections read as follows:

Section 2 – Definitions

"1. For the purposes of the present law, the following definitions apply:

...

(d) protected natural area (*biotopo*): an area of limited territorial extension on which protection restrictions are imposed in order to avoid direct or indirect alteration of its constituent elements, as it is characterised by natural features of great interest that are at risk of destruction and disappearance."

Section 4 – Protected natural areas

"1. Protected natural areas shall be established, in areas outside parks, reserves, and Natura 2000 network sites, by a decree of the President of the Region, following the binding opinion of the Technical-Scientific Committee referred to in section 8 and after

consultation with the municipality concerned, with an opinion to be issued within 60 days of the request, subject to the approval of the Regional Council.

2. The decree referred to in subsection 1 shall specify the perimeter of the protected area, approve rules for its protection, and identify methods for managing it, which may be carried out by agreement between the regional administration and the municipality concerned or, in the event of the municipality's withdrawal, between the regional administration and scientific institutions or environmental associations recognised under section 13 of Law no. 349 of 8 July 1986 (Establishment of the Ministry of the Environment and regulations on environmental damage).

3. A request for the establishment of a protected natural area, as referred to in subsection 1, may be made by municipalities and environmental associations recognised under section 13 of Law no. 349/1986.

4. For the purposes of conserving, improving, and maintaining biodiversity within regional protected natural areas, environmental restoration measures implemented by the regional administration shall be considered in the public interest and the related work shall be considered urgent and impossible to postpone."

Section 8 – Technical-Scientific Committee for Protected Areas

"1. The Technical-Scientific Committee for Protected Areas shall be established by a decree of the President of the Region ... The Committee shall act as a scientific advisory body to the regional administration and issue binding opinions, in accordance with the following provisions, on the following matters: ...

(c) the establishment of protected natural areas ..."

3. Decree no. 156 of 28 May 2007 of the President of Friuli-Venezia Giulia

29. This decree established the Risorgive di Codroipo protected area in the municipality of Codroipo, with the aim of guaranteeing the conservation of the natural site. The relevant provisions are summarised in paragraph 9 above.

4. Friuli-Venezia Giulia Regional Law no. 7 of 21 July 2008

30. This Law sets out the regional regulations governing the Natura 2000 network in accordance with the EU Habitats Directive.

31. Section 6 provides that the regions are responsible for the management of Natura 2000 sites and reiterates that the Natura 2000 network is composed of (a) Sites of Community Importance (SCIs); (b) Special Areas of Conservation (SACs); and (c) Special Protection Areas (SPAs).

32. Section 7 sets out the procedure for establishing, updating, and modifying Natura 2000 network sites.

33. Section 9 establishes general conservation measures for SCIs, identifying the main activities, interventions and works that are prohibited owing to their potential to compromise the conservation of natural habitats and habitats of species and disturb the species for which the areas have been designated under the EU Habitats Directive.

34. Section 10 establishes that the regional authorities are responsible for defining and adopting specific conservation measures and management plans for the protected sites.

35. Section 11 provides:

> "[I]n the territories of Natura 2000 network sites located within parks and reserves, the protection measures implemented in respect of such areas shall apply, provided that they are suitable for ensuring the protection of habitats and species for which the site or area was established ..."

COMPLAINT

36. The applicants complained about the restrictions limiting the use of their land, which had been imposed on account of the establishment of the protected area, and the lack of any payments for those restrictions. They submitted that they had had to bear an excessive burden, in violation of Article 1 of Protocol No. 1 to the Convention, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

THE LAW

A. The parties' arguments

1. The Government

37. The Government submitted that the application should be declared inadmissible for failure to exhaust domestic remedies, for the following reasons.

38. Firstly, the applicants had complained of a violation of the principles established by the Court for the first time in their appeal to the *Consiglio di Stato*, which had declared that ground of appeal inadmissible for that reason. Under Article 104 § 1 of the Code of Administrative Procedure, no new claims could be brought in appeal proceedings that had not been raised in an application at first instance to the Regional Administrative Court.

39. Secondly, the applicants had failed to make use of the facilities provided for by domestic law for participating in the procedure for the amendment of the general land-use plan – namely, they had not submitted any observations during that procedure.

40. Thirdly, the applicants had been provided with the possibility of requesting some form of compensation under domestic law, and they had

successfully obtained certain amounts. However, they had not challenged their entitlement to or the adequacy of such payments before the domestic courts.

41. As regards the merits of the complaint, the Government argued that the restrictions imposed on the applicants' ownership rights were to be regarded as measures of control of the use of property within the meaning of the second paragraph of Article 1 of Protocol No. 1 to the Convention. In particular, they pointed out that the restrictions had not concerned the entirety of the applicants' property, and that some activities had still been permitted on the land.

42. The Government maintained that, even if the creation of the protected area had interfered with the applicants' property rights, the interference had pursued the aim of ensuring environmental preservation and conservation.

43. The interference had also been proportionate to the aim pursued, given in particular that the applicants had been entitled to and had benefited from various compensatory measures: since 2013 the applicants had had access to allowances provided for by rural development plans.

44. In that connection, the Government referred first to the Rural Development Plan for 2007-13, which provided for allowances for restrictions deriving from environmental preservation and conservation measures imposed on agricultural land located in areas identified under, *inter alia*, the EU Habitats Directive, and specifically the land falling within the Risorgive di Codroipo protected area. The Government stated that the applicants had submitted a request for payments for the year 2013 under that Rural Development Plan, but that it had not been possible to retrieve information on the amount received.

45. The Government then referred to the Rural Development Plan for 2014-22 and the Friuli-Venezia Giulia CAP Strategic Plan for 2023-27, which provided for Natura 2000 allowances. Those allowances were aimed at compensating farmers and other land managers for specific disadvantages resulting from the application of, *inter alia*, the EU Habitats Directive and Regional Law no. 9 of 29 April 2005 (on the protection of natural permanent grassland) in respect of land located both within and outside the Natura 2000 network.

46. In particular, the allowances were aimed at providing payments for the loss of income resulting from the inability to transform certain areas – namely, those which had been classified as habitats of interest under the EU Habitats Directive – into arable land or to introduce other, more productive crops to those areas.

47. The Government submitted that the applicants had requested access to that allowance from 2016 to 2020. The applicants had been granted a total amount of 17,158.20 euros (EUR) in Natura 2000 allowances under the Rural Development Plan for 2014-22. That sum comprised two sub-types of allowance: the allowance in respect of the prohibition on transforming

grassland habitats into arable land, and the allowance in respect of the prohibition on planting and replanting specialised tree crops (including poplar trees).

48. In respect of the CAP Strategic Plan for 2023-27, the Government pointed out that, for the year 2023, the applicants had received a sum of EUR 610.50. For the year 2024, the applicants had lodged a request, but no information in respect of the sum granted to them had been available when the Government submitted their observations. The payments had been awarded in respect of the ban on converting grassland habitats into arable land. The Strategic Plan for 2023-27 did not provide for payments for the prohibition on planting and replanting specialised tree crops.

49. The Government further argued that between 2017 and 2020 the applicants had requested and benefited from further allowances aimed at encouraging the mowing of meadows in respect of the Rural Development Plan for 2014-22, receiving a total amount of EUR 2,640.24.

50. In conclusion, the Government maintained that the applicants had had access to numerous and various compensatory measures provided for by the law, and that they had never contested their entitlement to or the adequacy of the amounts received.

51. The Government maintained that the domestic authorities had ensured a fair balance between the demands of the general interest of the community and the requirements for the protection of the applicants' property rights. Accordingly, there had been no violation of Article 1 of Protocol No. 1 to the Convention.

2. The applicants

52. Contrary to the Government's submissions, the applicants contended that they had exhausted the available domestic remedies.

53. They argued that the fact that their ground of appeal to the *Consiglio di Stato*, concerning allegations that the Convention principles had been violated, had been deemed inadmissible as having been raised for the first time at that stage was not relevant for the purposes of the exhaustion of domestic remedies. The applicants pointed out that they had raised the substance of the complaints they are now raising before the Court throughout the domestic proceedings, namely the creation of the protected area and the lack of payments for the restrictions imposed on their land. They further argued that, notwithstanding the fact that the complaint was deemed inadmissibile, the *Consiglio di Stato* nevertheless addressed the merits of their claim.

54. Concerning the failure to use the facilities provided for by domestic law for participating in the procedure for the approval of the general land-use plan, the applicants argued that the remedies cited by the Government in that connection were inadequate.

55. Lastly, the applicants pointed out that there had been no other effective remedy against the judgment of the *Consiglio di Stato,* as they could only have appealed against that judgment to the Court of Cassation for reasons of jurisdiction.

56. Concerning the merits, the applicants argued that the compensatory measures to which they had had access had been insufficient to cover the depreciation in value of their land, which encompassed an area of 10 hectars.

57. The applicants observed that in judgment no. 306 of 2014, the Friuli-Venezia Giulia Regional Administrative Court had referred to certain compensatory measures, namely direct incentives to promote and maintain biodiversity and incentives aimed at providing compensation, on an equitable basis, for the limitations imposed on certain activities of economic importance. Those measures appeared to be those provided for in the Rural Development Plan of the Friuli-Venezia Giulia Region (*Piano di sviluppo rurale della Regione Friuli-Venezia Giulia*), which was funded by the European Agricultural Fund for Rural Development. The relevant plans in the present case were those for the years 2007-13, 2014-22, and 2023-27.

58. In particular, those plans had provided for a specific compensatory measure in respect of the ban on planting and replanting poplar groves or other specialised tree crops. The applicants submitted that the provision of payments in that regard had been inconsistent, as the measure had not been available every year and had ultimately been eliminated by Regional Law no. 20 of 26 November 2021. For five years the maximum allowance had amounted to EUR 291 per hectare per year, before being reduced to EUR 200 per hectare per year; eventually, the provision of allowances had been discontinued. Furthermore, payment had never been automatic; rather, it had been dependent on submitting a tender, with further stringent requirements established unilaterally by the Friuli-Venezia Giulia Region. The amount of the payments had varied from year to year on the basis of the regional budget. The allowances the applicants had benefited from had not been sufficient to offset the loss of profit from the use of the land, nor had it covered the depreciation in its value. The applicants did not dispute the Government's assertion that they had been awarded payments under the provisions in question and submitted that they had been allocated a total sum of around EUR 20,000 between 2011 and 2022.

59. The applicants maintained that such a sum had not been capable of compensating them for the loss of profit that they had sustained and that they had therefore had to bear an excessive burden.

B. The Court's assessment

60. The Court notes at the outset that it does not have to decide on the Government's preliminary objection concerning the non-exhaustion of

domestic remedies, given that the application is inadmissible in any event on the following grounds.

61. The Court will first examine whether there was interference with the peaceful enjoyment of the applicants' possession. In the present case, the Government admitted that there had been an interference with the applicants' right to the peaceful enjoyment of their possession (see paragraph 26 above). The Court notes that the establishment of the protected area in question – within which the first and second applicants' land is located – did not deprive them of their possession, but rather subjected the use of that possession to certain restrictions. In particular, the inability to continue using the land for poplar harvesting by replanting new poplar groves constituted a limitation of the rights normally enjoyed by a property owner. The Court is therefore of the view that there was interference with the peaceful enjoyment of the first and second applicants' possession.

62. As regards the applicant company, the Court notes that, unlike the other applicants, it was not claimed that it had property rights in respect of the land. Instead, it was submitted that the applicant company carried out agricultural activities there, namely poplar harvesting, whereby planting and replanting of poplars had always been subject to prior authorisation (see paragraph 4 above). A question may thus arise whether there has been an interference with the applicant company's rights under Article 1 of Protocol No. 1 (compare *O'Sullivan McCarthy Mussel Development Ltd v. Ireland*, no. 44460/16, § 90, 7 June 2018). However, the Court does not consider it necessary to address this question. Even assuming that there was an interference with the applicant company's rights under Article 1 of Protocol No. 1 it was justified for the reasons set out below (see paragraphs 63-76 below).

63. As to the nature of the interference complained of, it remains to be ascertained whether the consequences of the contested restrictions were so serious as to amount to a *de facto* deprivation of property. The Court notes that, as compared to the situation had the applicants been able to continue harvesting poplar trees on the land, the imposition of the restrictions did have adverse effects on both the income derivable from the possession involved in this case and its value. However, the first and second applicants (i) are still the owners of the land, (ii) retain their powers to take formal decisions, within the normal boundaries of the law, concerning the fate of their property, (iii) still have access to the land, and (iv) can carry out activities compatible with the protection needs of the area. In the light of the above considerations, the interference did not amount to deprivation of their possession. It must be regarded as a "control of the use of property" within the meaning of the second paragraph of Article 1 of Protocol No. 1 (see, *mutatis mutandis*, *Fredin v. Sweden (no. 1)*, 18 February 1991, §§ 46-47, Series A no. 192; *Depalle v. France* [GC], no. 34044/02, § 80, ECHR 2010; and *O'Sullivan McCarthy Mussel Development Ltd*, cited above, § 104, 7 June 2018).

64. Concerning the lawfulness of the interference, the Court observes that the protected area was established under section 4 of Regional Law no. 42 of 1996 (see paragraphs 26-28 above). The refusal to authorise the replanting of poplar groves on the applicants' land was based on Presidential Decree no. 156 of 2007 (see paragraph 29 above), which was incorporated into the general municipal land-use plan. The decree established the protected area with the aim of guaranteeing the protection of the site in accordance with EU Habitats Directive (see paragraphs 8 and 22-25 above). It further defined the activities compatible with its preservation, expressly prohibiting the planting and replanting of poplar groves. The parties did not contest the fact that the interference complained of was lawful and the Court sees no reason to hold otherwise. The interference was therefore in accordance with the law.

65. Regarding the purpose of the interference, it is clear that its aim was the protection of the environment. As the Court has often stated, this is an increasingly important consideration in today's society, having become a cause whose defence arouses the constant and sustained interest of the public, and consequently the public authorities. The Court has stressed this point a number of times with regard to the protection of the countryside, forests and coastal areas (see *Depalle*, cited above, § 81, and *Matczyński v. Poland*, no. 32794/07, § 101, 15 December 2015, with further references).

66. The Court therefore considers that the interference pursued a legitimate aim that was in the general interest, namely to promote environmental protection by creating specially protected areas.

67. It remains to be determined whether the measure complained about was proportionate to the aim pursued.

68. According to well-established case-law, the second paragraph of Article 1 of Protocol No. 1 is to be read in the light of the principle enunciated in the first sentence. Consequently, an interference must achieve a "fair balance" between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The search for this balance is reflected in the structure of Article 1 of Protocol No. 1 as a whole, and therefore also in the second paragraph thereof: there must be a reasonable relationship of proportionality between the means employed and the aim pursued. In determining whether this requirement is met, the Court recognises that the State enjoys a wide margin of appreciation with regard both to choosing the means of enforcement and to ascertaining whether the consequences of enforcement are justified in the general interest for the purpose of achieving the object of the law in question (see *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, § 75, ECHR 1999-III). The requisite balance will not be achieved if the person concerned has had to bear an individual and excessive burden.

69. The Court has, moreover, often reiterated that regional planning and environmental conservation policies, where the community's general interest is pre-eminent, confer on the State a margin of appreciation that is greater

than when exclusively civil rights are at stake (see, *mutatis mutandis*, *Depalle*, cited above, § 84, and *Matczyński*, cited above, § 105). Nevertheless, in exercising its power of review, the Court must determine whether the requisite balance was maintained in a manner consonant with the applicant's right of property (see, *mutatis mutandis*, *Sporrong and Lönnroth v. Sweden*, 23 September 1982, § 69, Series A no. 52).

70. With reference to the interference with proprietary rights, the State has a wide margin of discretion as to what is "in accordance with the general interest", particularly where environmental and cultural heritage issues are concerned (see *Matczyński,* cited above, § 106; and *Potomska and Potomski v. Poland*, no. 33949/05, § 67, 29 March 2011). Property, including privately owned property, also has a social function which, given the appropriate circumstances, must be included in the equation to determine whether a "fair balance" has been struck between the demands of the general interest of the community and the individual's fundamental rights. Consideration must be given in particular to the question of whether the applicant, on acquiring the property, knew – or should have reasonably known – about the restrictions on the property, or possible future restrictions (see *Allan Jacobsson v. Sweden (no. 1)*, 25 October 1989, §§ 60-61, Series A no. 163, and *Łącz v. Poland* (dec.), no. 22665/02, 23 June 2009), the existence of legitimate expectations with respect to the use of the property or acceptance of the risk on purchase (see *Fredin*, cited above, § 54), the extent to which the restriction prevented use of the property (see *Katte Klitsche de la Grange v. Italy*, 27 October 1994, § 46, Series A no. 293-B, and *SCEA Ferme de Fresnoy v. France* (dec.), no. 61093/00, ECHR 2005-XIII (extracts)) and the possibility of challenging the need for the restriction (see *Phocas v. France*, 23 April 1996, § 60, *Reports of Judgments and Decisions* 1996-II, and *Papastavrou and Others v. Greece*, no. 46372/99, § 37, ECHR 2003-IV).

71. Turning to the circumstances of the present case, the Court observes that the applicants had used the land for commercial poplar harvesting for two decades before the restrictions linked to the creation of the protected area were imposed. The Court further notes that throughout that period the applicants were required to apply for a permit from the local authorities each time they wished to plant or cut down poplar groves on their land, so that the compatibility of those activities with the regulations in force at the relevant time could be assessed (see paragraph 4 above). The Court is therefore of the view that the applicants were aware or ought to have been aware that the conditions for the use of the land could have been subject to review and modification in the future.

72. The Court further takes note of the applicants' allegation that they had been given no notice of the creation of the protected area or the restrictions on types of land use until they applied for authorisation to replant poplar groves. In that connection, the Court reiterates that persons carrying out professional activities can be expected to display a high degree of caution in

the pursuit of their activities, and to take special care in assessing the risks that may attach to those activities (see, *mutatis mutandis*, *O'Sullivan McCarthy Mussel Development Ltd*, cited above, § 117). In the present case, the Court reiterates that the applicants had harvested crops on the land for commercial purposes for many years before the restrictions in question were imposed, and that Decree no. 156/2007 of the President of the Region, establishing the protected area, was published in the Official Bulletin of the Region on 20 June 2007 (see paragraph 7 above) and was thus accessible to the public. The Court considers that, at least from that moment, the applicants ought to have been aware of the possible restrictions on the use of their land.

73. In any event, the Court notes that they were provided with the possibility of requesting a judicial review of both the legislation establishing the protected area and the local regulations which incorporated that measure into the local land-use plan. They were also eligible for payments in respect of the use of the land (see paragraphs 14-20 above).

74. The Court observes that the essential grievance in the present case concerns the existence and adequacy of compensation for the contested land-use restrictions. The Court notes that it is not disputed between the parties that the applicants were awarded some form of allowance between 2013 and 2024 in respect of the possible uses of their land. The applicants complained of the inadequacy of such amounts, which in their view had not been capable of offsetting the loss of profit and the depreciation in value of the land. In that connection, the Court reiterates that environmental protection policies, where the community's general interest is pre-eminent, confer on the State a margin of appreciation that is greater than when exclusively civil rights are at stake. In implementing such policies, the State may, in particular, have to intervene in the sphere of public property and even, in certain circumstances, foresee a lack of compensation in a number of situations falling within the control of the use of property (see *O'Sullivan McCarthy Mussel Development Ltd*, cited above, § 124). As the Court has consistently stated in its case-law, where a measure controlling the use of property is in issue, the lack of compensation is a factor to be taken into consideration in determining whether a fair balance has been achieved but is not of itself sufficient to constitute a violation of Article 1 of Protocol No. 1 (see *Depalle*, cited above, § 91).

75. At any rate, the Court notes that, in the present case, the applicants had access for more than ten years after the creation of the protected area to some payments. Although these sums were limited, they nonetheless offset, at least initially, the consequences of the restrictions on the use of the land. The Court further observes that the applicants did not claim that they had at any point been denied access to those allowances. It also takes note of the fact that the applicants never challenged at domestic level the adequacy of those payments or the relevant regulatory measures. Rather, they complained that they were not a compensation for what, according to them, had amounted to

the *de facto* expropriation of their land. In that connection, the Court reiterates that the present case does not concern deprivation of property, but rather the control of the use of property in which the lack of compensation is only one factor and not necessarily a decisive one (see paragraphs 63 and 73 above).

76. In conclusion, having particular regard to the State's margin of appreciation in the context of environmental protection policies, the Court considers that a fair balance was struck between the general interest and the applicants' right to the peaceful enjoyment of their possession.

77. It follows that the applicants' complaint under Article 1 of Protocol No. 1 to the Convention is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 April 2026.

Ilse Freiwirth Registrar	Ivana Jelić President

APPENDIX

List of applicants:

Applicant's name **Year of birth/Registration date** **Place of residence** **Nationality**	**Representative's name** **Location**
Franco VENDRAME 1961 Passariano di Codroipo Italian **Paolo VENDRAME** 1967 Camino al Tagliamento Italian **SOCIETÀ AGRICOLA FRATELLI VENDRAME & C.** 2005 Passariano di Codroipo Italian	Alessandro SPIZZO Udine