



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

FIRST SECTION

**CASE OF FORTE AND DI GIULIANO v. ITALY**

*(Application no. 61998/00)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

11 December 2003

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

**In the case of Forte and di Giuliano v. Italy,**

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mr G. BONELLO,

Mr A. KOVLER,

Mr V. ZAGREBELSKY,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges*,

and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 20 November 2003,

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

## PROCEDURE

1. The case originated in an application (no. 61998/00) 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”) by two Italian nationals, Mr Enzo Forte and Mrs Anna Maria Di Giuliano (“the applicants”), on 30 September 2000.

2. The applicants were represented by Mr D. Vani, a lawyer practising in Rome. The Italian Government (“the Government”) were represented by their successive Agents, respectively Mr U. Leanza and Mr I.M. Braguglia, and by their successive co-Agents, respectively Mr V. Esposito and Mr F. Crisafulli.

3. The applicants complained under Article 1 of Protocol No. 1 that they had been unable to recover possession of their flat within a reasonable time. Invoking Article 6 § 1 of the Convention, they further complained about the length of the eviction proceedings.

4. On 27 June 2002, after obtaining the parties' observations, the Court declared the application admissible

5. On 16 October 2003 and on 29 October 2003, the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

6. The applicants were born in 1945 and live in Rome.

7. V.C. was the owner of a flat in Rome, which she had let to C.V.

8. In a writ served on the tenant on 9 June 1987, the owner informed the tenant of her intention to terminate the lease on expiry of the term on 4 February 1988 and summoned him to appear before the Rome Magistrate.

9. By a decision of 13 January 1988, which was made enforceable on the same day, the Rome Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 September 1989.

10. On 13 October 1989, the owner served notice on the tenant requiring him to vacate the premises.

11. On 4 February 1989, she informed the tenant that the order for possession would be enforced by a bailiff on 11 January 1990.

12. Between 11 January 1990 and 13 November 1991, the bailiff made twelve attempts to recover possession. Each attempt proved unsuccessful, as the owner was not entitled to police assistance in enforcing the order for possession.

13. On 12 November 1991, the applicants became the owners of the flat and pursued the enforcement proceedings.

14. On 2 March 1994, the applicants served notice on the tenant requiring him to vacate the premises.

15. On 31 March 1994, they informed the tenant that the order for possession would be enforced by a bailiff on 29 April 1994.

16. Between 29 April 1994 and 3 March 2000, the bailiff made twenty-six attempts to recover possession. Each attempt proved unsuccessful, as the applicants were never granted the assistance of the police in enforcing the order for possession.

17. In the meanwhile, on 24 January 1995, the applicants made a statutory declaration that they urgently required the premises as accommodation for themselves.

18. On 7 April 2000, the applicants recovered possession of the flat.

## THE LAW

19. On 29 October 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 5,000 euros (five thousand euros) to Mr Enzo Forte and Mrs Annamaria Di Giuliano, 2,500 euros (two thousand five hundred euros) for each applicant, with a view to securing a friendly settlement of the application registered under no. 61998/00. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months starting from the notification of the judgment delivered by the Court pursuant to

Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

This declaration does not entail any acknowledgement by the Government of a violation of the European Convention on Human Rights in the present case.

The Government further undertake not to request the referral of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

20. On 16 October 2003 the Court received the following declaration signed by the applicants:

“I note that the Government of Italy are prepared to pay a sum totalling 5,000 euros (five thousand euros) to Mr Enzo Forte and Mrs Annamaria Di Giuliano, 2,500 euros (two thousand five hundred euros) for each applicant, covering both pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of application no. 61998/00 pending before the Court.

I accept the proposal and waive any further claims in respect of Italy relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and applicants have reached.

I further undertake not to request the referral of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment.”

21. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). In this connection the Court considers that it has already specified the nature and extent of the obligations which arise for the respondent Government in cases concerning eviction of tenants (see *Immobiliare Saffi v. Italy* [GC], no. 22774/93, ECHR 1999-V), and the question of the performance of those obligations is currently pending before the Committee of Ministers. Therefore, a continuation of the examination of the present application is not required. In these circumstances the Court accepts that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

22. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 11 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Deputy Registrar

Christos ROZAKIS  
President