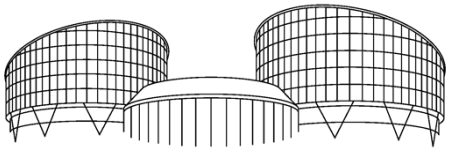

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF MARTUCCI AND FALAGARIO v. ITALY

(Applications nos. 15324/17 and 15633/17)

JUDGMENT

STRASBOURG

25 September 2025

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

In the case of Martucci and Falagario v. Italy,

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

Frédéric Krenc*, President*,
Raffaele Sabato,
Alain Chablais*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 15324/17 and 15633/17) 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 17 February 2017 by Ms Anna Maria Cecilia Martucci and Ms Matilde Falagario ("the applicants" – see the appended table for details), represented respectively by Mr G. Chiaia Noya and Mr A. Garofalo, lawyers practising in Bari;

the decision to give notice of the complaints concerning Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Italian Government ("the Government") represented by their Agent, Mr L. D'Ascia and to declare the remainder of the applications inadmissible;

the parties' observations;

Having deliberated in private on 4 September 2025,

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

SUBJECT MATTER OF THE CASE

1. The applications concern the non-enforcement of a final judgment delivered in the applicants' favour by the Lazio Regional Administrative Court, as well as the failure to grant compensation for the alleged damages resulting from such non-enforcement.

2. The case arose from proceedings initially brought by N.M., the father of the first applicant and husband of the second applicant, challenging the lawfulness of section 1 § 1 of the Ministerial Decree of 2 February 1994. The said provision, enacted pursuant to Article 1 § 1-*bis* of Law no. 237/1993, limited the State's assumption of guarantees undertaken by associates of agricultural cooperatives to those cooperatives formally declared insolvent by the date of the decree entering into force. Although insolvency proceedings had already commenced in respect of N.M.'s cooperative before the decree had entered into force, the formal declaration of bankruptcy occurred only afterward, leading the State to deny coverage. Following N.M.'s death, the applicants continued the proceedings as his heirs.

3. In the course of the domestic proceedings, acting in their capacity as heirs, the applicants made the following payments to the creditors of N.M.'s cooperative: (i) 168,904.50 euros (EUR) to bank Caripuglia on 30 May 1996;

(ii) EUR 961,900.99 to Banco di Napoli on 31 December 1999; and (iii) EUR 20,000 to Monte dei Paschi di Siena on 31 March 2009.

4. By judgment no. 5899 of 8 April 2010, the Lazio Regional Administrative Court declared the impugned provision unlawful.

5. Subsequently, on 9 December 2010, the applicants requested reimbursement from the Ministry of Agricultural, Food and Forestry Policies of the sums they had paid in respect of debts which, in the absence of the provision declared unlawful, ought to have been paid by the State. However, their request was rejected on the ground that only debts still outstanding at the time of the delivery of the judgment of the Lazio Regional Administrative Court could be assumed by the State pursuant to Law no. 237/1993.

6. The applicants then initiated enforcement proceedings (*giudizio di ottemperanza*), also claiming compensation for the damage allegedly sustained. By judgment no. 3706 of 26 August 2016, the *Consiglio di Stato* ruled that enforcement of the 2010 judgment was precluded by "legal and factual obstacles", including the fact that the relevant debts had already been discharged by the applicants and could no longer be assumed by the Ministry. As regards compensation, the *Consiglio di Stato* likewise dismissed the applicants' claim, finding that the authorities had acted under an "excusable error" (*errore scusabile*), due to the lack of clarity and the objectively ambiguous wording of Article 1 § 1-*bis* of Law no. 237/1993, which had led to conflicting case-law and misled the administration in drafting the implementing Ministerial Decree of 2 February 1994.

7. The applicants complained that the non-enforcement of the final judgment in their favour, combined with the dismissal of their reimbursement request, was in breach of Article 6 § 1 of the Convention. Relying on Article 1 of Protocol No. 1 to the Convention, they further complained that the decision of the domestic courts to reject their claim for compensation for the damage sustained as a result of the unlawful administrative decision had amounted to a disproportionate interference with their "possessions".

THE COURT'S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

8. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

A. Admissibility

9. The Government objected that the applicants had failed to exhaust domestic remedies, as they had not availed themselves of the compensation mechanism provided under Article 112 § 3 of the Code of Administrative Procedure. This mechanism allows claims in cases of non-compliance with final judgments without requiring proof of fault.

10. The applicants noted that this remedy had not been in force at the time they initiated the first-instance proceedings. Moreover, they had raised a compensation claim on that basis in their appeal before the *Consiglio di Stato*.

11. The general principles governing the requirement to exhaust domestic remedies have been summarised in *Vučković and Others v. Serbia* ([GC], nos. 17153/11 and 29 others, § 71, 25 March 2014).

12. The parties did not dispute that the remedy was introduced after the applicants had already initiated enforcement proceedings.

13. The Government's argument that the applicants should have introduced a new claim in light of the legislative novelty is unconvincing. The applicants had made use of the remedy available at the relevant time, and they could not be expected to reformulate their claim in the course of the proceedings. The Court reiterates that when more than one potentially effective remedy is available, the applicant is only required to have used one of them (*Aquilina v. Malta* [GC], no. 25642/94, § 39, ECHR 1999-III). Indeed, when one remedy has been attempted, the use of another remedy which has essentially the same purpose is not required (*Micallef v. Malta* [GC], no. 17056/06, § 58, ECHR 2009). The Government's objection must therefore be dismissed.

14. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

15. The Government argued that the applicants had voluntarily settled the debts in question despite not being legally obligated to do so, and that they had failed to take preventive measures, such as requesting a suspension of the enforcement proceedings or seeking interim relief against the contested ministerial decree.

16. The applicants maintained that the payments had not been made voluntarily. They submitted that immediately enforceable payment orders had been issued against them, leading to the registration of judicial mortgages

over their property, which prevented them from freely disposing of the assets concerned.

17. The general principles for the determination of whether, in the absence of redress, an unlawful interference imposes an excessive individual burden have been summarised in *Immobiliare Saffi v. Italy* ([GC], no. 22774/93, §§ 57-59, ECHR 1999-V), *Iatridis v. Greece* ([GC], no. 31107/96, § 58, ECHR 1999-II), *Scordino v. Italy* (no. 1) ([GC], no. 36813/97, § 180, ECHR 2006-V) and *Gashi v. Croatia* (no. 32457/05, §§ 40-41, 13 December 2007).

18. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful.

19. The Court observes that it is undisputed that the ministerial provision was unlawful, as established by the domestic courts (see paragraph 4 above). Nevertheless, the applicants' claims for compensation were dismissed on the grounds that the administrative authorities had acted under an excusable error, given the ambiguity of Article 1 § 1-*bis* of Law no. 237 of 1993 (see paragraph 6 above).

20. The Court has previously established that the excusable nature of an error made by the domestic authorities does not justify an interference with property rights, and applicants should not bear the consequences of such errors (see, *mutatis mutandis*, *Gashi*, cited above, § 40). Furthermore, in the event that an error is the consequence of a lack of clarity of the applicable law, the Court emphasises that the requirement of lawfulness means that rules of domestic law be sufficiently accessible, precise and foreseeable (see *Carbonara and Ventura v. Italy*, no. 24638/94, § 64, ECHR 2000-VI).

21. The Court considers that, having regard to the sixteen-year duration of the domestic proceedings (from 1994 to 2010), the applicants' conduct was justified in light of their legitimate interest in avoiding enforcement measures and preserving their property. Moreover, they could not reasonably have been expected to take the preventive measures referred to by the Government, given the uncertainty surrounding their effectiveness and the fact that such measures would have merely mitigated the consequences of an unlawful act by the public authorities.

22. The Court further observes, albeit incidentally, that the national authorities' acknowledgment of the unlawfulness of the interference in question cannot, in itself and in the absence of compensation for the damage suffered, be regarded as sufficient to remedy the alleged violation of the Convention (see, among many other authorities, *Scordino v. Italy* (no. 1) [GC], no. 36813/97, § 178, ECHR 2006-V, and *Vella v. Malta*, no. 69122/10, § 47, 11 February 2014).

23. Having regard to the above considerations, the Court finds that the interference in question was manifestly in breach of domestic law and, accordingly, incompatible with the applicants' right to the peaceful

enjoyment of their possessions. This conclusion makes it unnecessary to ascertain whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

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

III. OTHER COMPLAINTS

25. The applicants also raised a complaint under Article 6 of the Convention. Having regard to the facts of the case, the parties' submissions, and its findings above, the Court considers that it has dealt with the main legal questions raised and that there is no need to examine the remaining complaint (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. The applicants jointly claimed in respect of pecuniary damage 1,150,805.49 euros (EUR), namely the total amount they had paid to the creditors of N.M.'s cooperative (see paragraph 3 above) plus statutory interest from the dates of the individual payments until full settlement. They further claimed jointly EUR 12,836.48 in respect of costs and expenses incurred before the Court.

27. The Government, while not contesting the amount claimed in respect of the pecuniary damage, maintained that the alleged damage could have been avoided through the exercise of ordinary diligence. They also argued that the claim for costs and expenses was unsubstantiated, as the applicants had submitted only lawyer's invoices without proof of payment.

28. The Court reiterates that a judgment finding a breach imposes a legal obligation on the respondent State to end the breach and provide reparation for its consequences restoring as far as possible the situation existing before the breach (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 32, ECHR 2000-XI). Moreover, only damage sustained as a result of Convention violations found by the Court may give rise to the award of just satisfaction (see, among other authorities, *Éditions Plon v. France*, no. 58148/00, § 61, ECHR 2004-IV).

29. In the present case, the Court has found a violation of Article 1 of Protocol No. 1 to the Convention, as the unlawful ministerial provision prevented the applicants from obtaining, in due time, the State's assumption of the cooperative's debts. Consequently, they were obliged to settle those debts themselves without subsequently obtaining any reimbursement.

30. In these circumstances, the Court finds it reasonable to award the applicants jointly the total sum of EUR 1,150,805.49 for pecuniary damage, plus any tax that may be chargeable on that amount.

31. However, no sum can be awarded in respect of statutory interest on that amount, as the applicants' claim was not substantiated. In their observations, they neither explained the grounds for the claim nor provided any indication of the method used to calculate such interest.

32. Having regard to the documents in its possession, the Court considers it reasonable to award jointly EUR 6,000 covering costs and expenses for the proceedings before the Court, plus any tax that may be chargeable to the applicants, and dismisses the remainder of the claim.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaint under Article 1 of Protocol No. 1 to the Convention admissible;

3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

4. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 6 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicants jointly within three months, the following amounts;
      (i) EUR 1,150,805.49 (one million one hundred and fifty thousand eight hundred and five euros and forty-nine cents), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 6,000 (six thousand euros), plus any tax that may be chargeable to the applicants, 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;

6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 25 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by
1.	15324/17	Martucci v. Italy	17/02/2017	**Anna Maria Cecilia MARTUCCI** 1977 Bari Italian	Giuseppe CHIAIA NOYA
2.	15633/17	Falagario v. Italy	17/02/2017	**Matilde FALAGARIO** 1937 Valenzano Italian	Adriano GAROFALO