



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

FIRST SECTION

**CASE OF BERTINI v. ITALY**

*(Application no. 32363/96)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

3 December 2001



**In the case of Bertini v. Italy,**

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

Mr C.L. ROZAKIS, *President*,  
Mr G. BONELLO,  
Mrs F. TULKENS,  
Mr P. LORENZEN,  
Mrs N. VAJIĆ,  
Mrs S. BOTOCHAROVA, *judges*,  
Mr G. RAIMONDI, *ad hoc judge*,  
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 8 November 2001,

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

**PROCEDURE**

1. The case originated in an application (no. 32363/96) against the Italian Republic lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mrs Amina Bertini (“the applicant”), on 26 February 1996.

2. The applicant was represented before the Court by Mr F. Leonardi, a lawyer practising in Rome. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito.

3. The applicant complained about her prolonged inability – through lack of police assistance – to recover possession of her apartment and about the duration of the eviction proceedings.

4. On 15 March 2001, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 29 August 2001 and on 6 September 2001, the applicant and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

## THE FACTS

6. The applicant is the owner of an apartment in Rome, which she had let to L.G.

7. In a registered letter of 28 June 1982, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 31 December 1982 and asked him to vacate the premises by that date.

8. On 28 June 1982 she served a notice to quit on the tenant, but he refused to leave.

9. In a writ served on the tenant on 3 December 1984, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Rome Magistrate.

10. On 29 January 1985, the Rome Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 29 January 1986. That decision was made enforceable on 29 January 1985.

11. On 18 April 1986, the applicant served notice on the tenant requiring him to vacate the premises.

12. On 13 May 1986 she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 10 July 1986.

13. Between 10 July 1986 and 2 October 1997 the bailiff made forty-two attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

14. On 12 November 1997, the tenant spontaneously vacated the apartment.

## THE LAW

15. On 10 September 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 65,000,000 ITL to Mrs Amina Bertini with a view to securing a friendly settlement of the application registered under no. 32363/96. 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 reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

16. On 3 September 2001, the Court received from the applicant’s representative the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 65,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mrs Amina Bertini with a view to securing a friendly settlement of application no. 32363/96 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 the applicant have reached.

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

17. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied 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).

18. 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 3 December 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH  
Registrar

Christos ROZAKIS  
President