



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

FIRST SECTION

**CASE OF A. v. ITALY**

*(Application no. 40453/98)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

9 October 2003

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

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

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mr E. LEVITS,

Mr V. ZAGREBELSKY,

Mrs E. STEINER, *judges*,

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

Having deliberated in private on 18 September 2003,

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

**PROCEDURE**

1. The case originated in an application (no. 40453/98) 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 G. A. (“the applicant”), on 6 February 1998.

2. The applicant is represented by Mr E. Baldi, a lawyer practising in Naples. The Italian Government (“the Government”) were represented by their successive Agents, Mr U. Leanza and Mr I. M. Braguglia, and by their successive co-agents, respectively Mr V. Esposito and Mr F. Crisafulli.

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

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. On 24 October 2002, having obtained the parties' observations, the Court declared the application admissible.

6. On 25 June 2003 and on 2 July 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

7. The applicant was born in 1935 and lives in Naples.

8. She is the owner of a flat in Naples, which she had let to A.M.

9. In a registered letter of 27 November 1978, she informed the tenant that she intended to terminate the lease on expiry of the term on 3 June 1979 and asked him to vacate the premises by that date.

10. On 30 June 1980, she served a notice to quit on the tenant, but he refused to leave.

11. In a writ of 5 March 1981, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Naples Magistrate.

12. At the hearing of 5 May 1981, A.M. opposed alleging the expiry of the term on 31 January 1984. The Magistrate declared his incompetence and referred the parties to the Naples Tribunal.

13. By a decision of 13 February 1985, which was made enforceable on 11 March 1987, the Naples Tribunal upheld the validity of the notice to quit and ordered that the premises be vacated by 20 February 1986.

14. At the hearing of 21 June 1985, A.M. opposed, alleging the expiry of the term on another date.

15. On 12 December 1986, the Naples Tribunal rejected the appeal.

16. On 15 November 1989, the applicant served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 13 June 1990.

17. On 17 January 1990, the applicant made a statutory declaration that she urgently required the premises as accommodation for her daughter.

18. Between 13 June 1990 and 13 October 1997, the bailiff made twenty-six attempts to recover possession. Each attempt proved unsuccessful, as the applicant was never granted the assistance of the police in enforcing the order for possession.

19. On 18 June 2002, the applicant's representative informed the Court that in the meantime, the applicant had entered into a new lease with the tenant.

## THE LAW

20. On 2 July 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 7,085 (seven thousand and eighty-five) Euros to G.A. with a view to securing a friendly settlement of the application registered under no. 40453/98. 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”

21. On 25 June 2003 the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 7,085 (seven thousand and eighty-five) Euros covering both pecuniary and non-pecuniary damage and costs to G.A. with a view to securing a friendly settlement of application no. 40453/98 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 referral of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment”

22. 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).

23. 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 9 October 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Deputy Registrar

Christos ROZAKIS  
President