



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

FIRST SECTION

**CASE OF NOTARGIACOMO v. ITALY**

*(Application no. 63600/00)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

9 October 2003

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

**In the case of Notargiacomo 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. 63600/00) 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 an Italian national, Mr Gaetano Notargiacomo (“the applicant”), on 1 December 2000.

2. 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 applicant complained under Article 1 of Protocol No. 1 that he had been unable to recover possession of his flat within a reasonable time. Invoking Article 6 § 1 of the Convention, he 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 30 June 2003 and on 18 July 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

**THE FACTS**

6. The applicant was born in 1925 and lives in Rome.

7. He is the owner of a flat in Rome, which he had let to F.M. and G.C.

8. In a registered letter of 8 June 1983, the applicant informed the tenants that he intended to terminate the lease on expiry of the term on 31 December 1983 and asked them to vacate the premises by that date.

9. The tenants told the applicant that they would not leave the premises.

10. In a writ served on the tenants on 18 May 1985, the applicant reiterated his intention to terminate the lease and summoned them to appear before the Rome Magistrate.

11. By a decision of 29 June 1985, 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 28 June 1986.

12. On 26 May 1986, the applicant served notice on the tenants requiring them to vacate the premises.

13. On 9 July 1986, he served notice on the tenants informing them that the order for possession would be enforced by a bailiff on 31 July 1986.

14. Between 31 July 1986 and 19 May 2000, the bailiff made seventy-three attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

15. On 14 June 2000, the applicant recovered possession of the apartment

## THE LAW

16. On 18 July 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 7,100 (seven thousand one hundred) Euros to Mr Gaetano Notargiacomo with a view to securing a friendly settlement of the application registered under no. 63600/00. 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”

17. On 30 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 7,100 (seven thousand one hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mr Gaetano Notargiacomo with a view to securing a friendly settlement of application no. 63600/00 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 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"

18. 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).

19. 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