



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

FIRST SECTION

**CASE OF CARNASCIALI v. ITALY**

*(Application no. 66754/01)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

29 January 2004

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

**In the case of Carnasciali 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 8 January 2004,

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

**PROCEDURE**

1. The case originated in an application (no. 66754/01) 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, Mrs Franca Carnasciali (“the applicant”) on 27 February 2001.

2. The applicant was represented before the Court by Mr G. Vercellis, a lawyer practising in Florence. 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 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. On 12 September 2002, after obtaining the parties' observations, the Court declared the application admissible.

5. On 13 November 2003 and on 20 November 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 1948 and lives in Florence.

7. T.P.N. was the owner of a flat in Florence, which she had let to M.G.

8. In a registered letter of 20 June 1987, the owner informed the tenant that she intended to terminate the lease on expiry of the term on 31 December 1987 and asked him to vacate the premises by that date.

9. In a writ served on the tenant on 21 January 1988, the owner reiterated her intention to terminate the lease and summoned the tenant to appear before the Florence Magistrate.

10. By a decision of 10 February 1988, which was made enforceable on 22 February 1988, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 10 February 1989.

11. On 19 May 1989, the owner served notice on the tenant requiring him to vacate the premises.

12. On 15 June 1989, she informed the tenant that the order for possession would be enforced by a bailiff on 13 July 1989.

13. On 20 November 1989, the applicant became the owner of the flat.

14. Between 13 July 1989 and 1 September 2000, the bailiff made twenty 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.

15. On 11 February 1991, the applicant made a statutory declaration that she urgently required the premises as accommodation for herself.

16. On 1 September 2000, the applicant recovered possession of the flat.

## THE LAW

17. On 20 November 2003, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 7,000 euros (seven thousand euros) to Mrs Franca Carnasciali with a view to securing a friendly settlement of the application registered under no. 66754/01. 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.”

18. On 13 November 2003, the Court received the following declaration signed by the applicant's representative:

“I note that the Government of Italy are prepared to pay a sum totalling 7,000 euros (seven thousand euros) covering both pecuniary and non-pecuniary damage and costs to Mrs Franca Carnasciali with a view to securing a friendly settlement of application no. 66754/01 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 applicant has 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.”

19. 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).

20. 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 29 January 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Deputy Registrar

Christos ROZAKIS  
President