

## SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE  
OF MINISTERS  
COMITÉ  
DES MINISTRES



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Date: 03/02/2025

**DH-DD(2025)123**

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Meeting: 1521<sup>st</sup> meeting (March 2025) (DH)

Communication from the applicant (31/01/2025) in the case of Gualtieri and Others v. Italy (Application No. 51336/09) (Croce and others group).

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1521<sup>e</sup> réunion (mars 2025) (DH)

Communication du requérant (31/01/2025) relative à l'affaire Gualtieri et autres c. Italie (requête n° 51336/09) (groupe Croce et autres) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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DGI

31 JAN. 2025

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

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**Esteemed**

**COUNCIL OF EUROPE**

**DGI – DIRECTORATE GENERAL HUMAN RIGHTS AND  
RULE OF LAW**

**DEPARTMENT FOR THE EXECUTION OF JUDGEMENTS  
OF THE EUROPEAN COURT OF HUMAN RIGHTS**

**RIGHT SATISFACTION SECTION**

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**Esteemed**

**MINISTRY OF ECONOMICS AND FINANCE,**

**in person of the p.t. Minister**

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**SUBJECT: APPEAL FOR INCOMPLETE EXECUTION OF ECtHR JUDGEMENT**

**(GUALTIERI and OTHERS / ITALY – Requests n. 51336/09 and 9 other) dated 16  
November 2023**

In the name and on behalf of Mrs **GUALTIERI FIORELLA**, born in Vercelli on 08. April 1951, residing in Crotone in via Cutro, No. 26, Mrs. **GUALTIERI DANILA**, born in Crotone on 23. May 1953, residing in Traversa I, via Ugo Foscolo, No. 3, **GUALTIERI ANTONIO**, born in Vibo Valentia on 21. February 1967, residing in Mantua, V.le Europa, No. 33, all of Italian nationality and and all in the capacity of heirs of Mr. Gualtieri Giovanni, deceased in Crotone on 30. May 2016 and, the sole Mr. Gualtieri Antonio, in the capacity of heir of Ms. Gualtieri Maria Teresa and Ms. Gualtieri Rosaria as well, both deceased in Lamezia Terme respectively on the date of 22.01.2011 and 23.07.2016, represented and defended by virtue of power of attorney and documentation already on files, by attorney Palma Ferrarelli, Lawyer practicing in the Italian Republic, with an office in Crotone, where all parties elect domicile for the purpose of notifications from the Court and all consequent fulfillments,

**THE FOLLOWING IS HIGHLIGHTED:**

- With judgement No. 83/2001, concerning case **RG 488/85 (Attachment No. 1)**, the Court of Lamezia Terme sentenced the Consorzio Società Cooperative (Cooperative Companies Consortium) 'Habitat' S.R.L. (LCC – Limited Liability Company) to pay in favour of Mr. Giovanni, Ms. Maria Teresa, and Ms. Rosaria Gualtieri:
  - As compensation for damages, in the amount of 15,123,000 Italian Lire (€ 7,810.38), plus monetary revaluation according to ISTAT indices, effective from May 1984 until the date

of the judgement (March 22, 2001), and in addition to incremental interests with the same effective date until satisfaction,

- As compensation for unlawful occupation, the sum of 5,409,600 Italian Lire (€ 2,793.83) plus legal interest from May 1984 until satisfaction, and  
as legal expenses, 8,625,000 Italian Lire (€ 4,454.44) plus VAT and CPA as per the law
- On 24. November 1999, with judgment no. 1 of the Court of Lamezia Terme, the insolvency status of the Consorzio Società Cooperative 'Habitat' S.R.L. was declared. Consequently, it was placed under administrative compulsory liquidation by Decree of the Ministry of Labour and Social Welfare no. 54 of 28. February 2000.
- On October 5, 2001, Messrs. Gualtieri submitted (**Attachment No. 2**) an application for admission to the list of creditors in the liquidation proceedings, for the credit indicated in the judgment of the Court of Lamezia Terme no. 83/2001, concerning case **RG 488/85**. They were admitted, by order of the Delegate Judge at the Court of Lamezia Terme on 12. February 2002 (**Attachment No. 3**), for an amount of €40,203.08 (thus, the right to the credit resulting from judgment no. 83/2001 was recognized, in the quantification indicated).
- The appointed liquidator, Dr. Mario Lupis, repeatedly communicated that he had submitted the request to close the procedure due to the lack of financing for the asset recovery action by the Supervisory Authority (Autorità di Vigilanza), resulting in the impossibility for the creditors - and thus also for Messrs. Gualtieri - to see their credit paid.
- All the above was indicated in the appeal dated 7. September 2009, which Messrs Gualtieri Giovanni, Gualtieri Maria Teresa, and Gualtieri Rosaria sent to the ECtHR, requesting recognition of damages for €40,203.08, a sum they had not been able to obtain due to the excessive duration of the first-instance proceedings (16 years), which had prevented fruitful action against the Habitat Consortium, and because the State had not subsidized the liquidator's activity.
- The ECtHR, with its judgment of November 16, 2023 ("Requetes No. 51336/09 - Case of Gualtieri and Others v. Italy"), decided on the appeal, establishing textually that: "[...] 5. *the respondent State must, within three months, ensure, by appropriate means, the execution of decisions of the national courts not yet fully implemented, as listed in the attached table*; 6. a) *that the respondent State shall pay the applicants, within three months, the amounts indicated in the attached table*; b) *that from the expiry of this period until payment, these amounts shall bear simple interest at a rate equal to that of the ECB's marginal lending facility applicable during that period, plus three percentage points.*"
- Within the attached table, in the section pertaining to Messrs. Gualtieri:
  - The "internal judicial decision" referred to is the judgment concerning case no. RG 488/95 dated 22. March 2001, instituted at the Court of Lamezia Terme.
  - "The amount allocated for the moral damages of the applicant / family" is set at €9,600, plus €250 for expenses.
  - The period relating to the calculated delay amounts to a total of 22 years, 5 months, and 28 days.

- The previous jurisprudence referenced by the ECtHR is in case no. 43422/07 dated 14. March 2019 - Arnaboldi / Italy

To date, the Italian State has **only made the payment** of €9,600.00 as compensation for moral damages to Messrs. Gualtieri, failing to fulfil, within the three-month period (thus by 16. February 2024), the payment of expenses and, most importantly, to execute the decision of the National Court as expressly provided on page 3, point 5 of judgment proceeding no. 51336/09, Gualtieri / Italian State dated 16. November 2023.

It is important to highlight that Article 46, paragraph 1 of the ECtHR expressly establishes that *'The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties,'* thereby affirming the principle that there is an obligation on the part of States for which a violation of the Convention has been found to take the necessary measures to remedy such non-compliance.

In support of the above, if further evidence is needed, the jurisprudential precedent cited by the Court to support its decision (No. 43422/07 dated 14. March 2019 - Arnaboldi / Italy) unequivocally condemns the Italian State to the payment of material damages plus interest (see paragraph 74 of the judgment).

#### FAILURE TO FULFILL

Based on the provisions of the Court's judgment, the execution of the decision of the National Court consists of the payment of the sums awarded in favour of the applicants by the Court of Lamezia Terme with judgment no. 83/2001, concerning case RG 488/85, and admitted to the liquidation procedure by order of the Delegate Judge for bankruptcy at the Court of Lamezia Terme, with a decision dated February 12, 2002, in the amount of €40,203.08.

It follows that the Italian State continues to be in breach of its obligations towards the original applicants for the expenses and the amount of **€40,203.08**, a sum that, even if not explicitly stated in the appeal, it is believed it should be indexed and increased with interest from February 12, 2002, until satisfaction, based on what was established in the Arnaboldi Italy judgment, paragraph 74, in an attempt to compensate for the time elapsed since the issuance of the decision of the Court of Lamezia Terme until now, approximately 23 years.

Index at the commencement: 116,9

Index at expiration: 119,3

Index Adjustment: 1,471

Revaluation Coefficient: 1,501

**Total Revaluation: € 20.141,74**

Revaluated Capital: € 60.344,82

Total Column Days: 8052

**Total Interest: €18,799.93**

Revaluation + Interest: €38,941.67

**"Revaluated Capital + Interest: €79,144.75 as of 22.03.24"**

We hereby resend, referring to the documents already submitted as attachments to the appeal.

1. Judgment no. 83/2001, regarding case RG 488/85 the Court of Lamezia Terme.
2. Application for admission to the list of creditors dated 5. October 2002.
3. Order of the Delegate Judge at the Court of Lamezia Terme dated 12. February 2002.

Crotone 21. March 2024

Attorney Palma Ferrarelli  
