



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

SECOND SECTION

CASE OF GATTO v. Italy

(Application no. 34469/97)

JUDGMENT

STRASBOURG

2 November 1999

In the case of Gatto v. Italy,

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

Mr C. ROZAKIS, *President*,
Mr M. FISCHBACH,
Mr B. CONFORTI,
Mr G. BONELLO,
Mrs V. STRÁŽNICKÁ,
Mr P. LORENZEN,
Mrs M. TSATSA-NIKOLOVSKA, *Judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 21 October 1999,

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

PROCEDURE

1. The case originated in an application (no. 34469/97) against Italy 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, Mr Vincenzo Gatto (“the applicant”), on 20 December 1996. The applicant is represented by Mr Dante Pola, a lawyer practising in Modena. The Italian Government (“the Government”) are represented by their Agent, Mr U. Leanza.

2. The applicant complained under Article 6 § 1 of the Convention about the length of the criminal proceedings brought against him and under Article 5 § 1 and § 3 of the Convention about the lawfulness and the length of his detention on remand. On 9 September 1998 the Commission (First Chamber) decided to give notice of the applicant’s complaint concerning the length of criminal proceedings to the Government and invited them to submit their observations on its admissibility and merits. It declared inadmissible the remainder of the application. The Government submitted their observations on 24 November 1998 to which the applicant replied on 22 December 1998.

3. Following the entry into force of Protocol No. 11 to the Convention on 1 November 1998 and in accordance with the provisions of Article 5 § 2 thereof, the application was transferred to the Court.

4. In accordance with Rule 52 § 1 of the Rules of the Court, the President of the Court, Mr L. Wildhaber, assigned the case to the Second Section. The Chamber constituted within the Section included *ex officio* Mr B. Conforti, the judge elected in respect of Italy (Article 27 § 2 of the Convention and Rule 26 § 1 (a) of the Rules of the Court), and

Mr C. Rozakis, the President of the Section (Rule 26 § 1 (a)). The other members designated by the latter to complete the Chamber were Mr M. Fischbach, Mr G. Bonello, Mrs V. Strážnická, Mr P. Lorenzen and Mrs Tsatsa-Nikolovska.

5. On 23 February 1999, the Court declared admissible the applicant's complaint relating to the length of the criminal proceedings.

6. On 17 August 1999, after an exchange of correspondence, the Section Registrar proposed to the parties to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 13 September and on 14 September 1999 respectively the applicant and the Government submitted formal declarations accepting a friendly settlement of the case.

AS TO THE FACTS

7. The applicant was arrested on 20 October 1983 pursuant to a warrant issued by the Reggio Emilia Public Prosecutor. He was committed for trial for having received stolen goods before the Milan District Court on 23 May 1990. The first hearing was fixed for 26 June 1995. By a judgment of 16 July 1996, the Milan District Court acquitted the applicant.

AS TO THE LAW

8. On 15 September 1999 the Court received the following declaration by the Government:

“Je déclare qu'en vue d'un règlement amiable de l'affaire ayant pour origine la requête n° 34469/97, introduite par M. Vincenzo Gatto, le Gouvernement italien offre de verser à celui-ci la somme de 37 000 000 liras italiennes, dont 32 000 000 liras italiennes au titre du dommage matériel et moral et 5 000 000 au titre des frais et dépens, dès la notification de l'arrêt de la Cour rendu conformément à l'article 39 de la Convention européenne des Droits de l'Homme. Ce versement vaudra règlement définitif de l'affaire.

La présente déclaration n'implique de la part du Gouvernement aucune reconnaissance d'une violation de la Convention européenne des Droits de l'Homme en l'espèce.

En outre, le Gouvernement s'engage à ne pas demander, après le prononcé de l'arrêt, le renvoi de l'affaire à la Grande Chambre conformément à l'article 43 § 1 de la Convention.”

9. On 10 August 1999, the Court received the following declaration, signed by the applicant's representative:

“J’ai pris connaissance de la déclaration du Gouvernement italien selon laquelle il est prêt à me verser la somme de 37 000 000 lires italiennes, dont 32 000 000 lires italiennes au titre du dommage matériel et moral et 5 000 000 au titre des frais et dépens en vue d’un règlement amiable de l’affaire ayant pour origine la requête n° 34469/97 que j’ai introduite devant la Cour européenne des Droits de l’Homme.

J’accepte cette proposition et renonce par ailleurs à toute autre prétention à l’encontre de l’Italie à propos des faits l’origine de ladite requête. Je déclare l’affaire définitivement réglée.

La présente déclaration s’inscrit dans le cadre du règlement amiable auquel le Gouvernement et moi-même somme parvenus.

En outre, je m’engage à ne pas demander, après le prononcé de l’arrêt, le renvoi de l’affaire à la Grande Chambre conformément à l’article 43 § 1 de la Convention.”

10. 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 the Court).

11. 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 re-hearing of the case before the Grand Chamber.

Done in English, then sent as a certified copy on 2 November 1999, according to Rule 77 § 2 and 3 of the Rules of the Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President