



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

SECOND SECTION

CASE OF IULIANO v. Italy

(Application no. 35756/97)

JUDGMENT

STRASBOURG

2 November 1999

In the case of Iuliano 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. M. 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. 35756/97) 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 two Italian nationals, Mr Antonio Iuliano and Mr Luigi Iuliano (“the applicants”), on 10 April 1997. The applicants are represented by Mr Giovanni Romano, Mr Togo Verrilli and Mr Antonio Lombardi, lawyers practising in Benevento. The Italian Government (“the Government”) are represented by their Agent, Mr U. Leanza.

2. The applicants complained under Article 6 § 1 of the Convention about the length of the criminal proceedings brought against them. On 9 September 1998 the Commission (First Chamber) decided to give notice of the application to the Government and invited them to submit their observations on its admissibility and merits. The Government submitted their observations on 2 December 1998 to which the applicants replied on 25 January 1999.

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 March 1999, the Court declared the application admissible.

6. On 2 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 24 August and 13 September 1999 respectively the applicants and the Government submitted formal declarations accepting a friendly settlement of the case.

AS TO THE FACTS

7. On 18 December 1986, a criminal complaint was lodged by F.T. against the applicants for having threatened him and using violence against him. The applicants were committed for trial before the Benevento District Court on 9 March 1989. The first hearing was fixed for 11 February 1993.

8. By a judgment of 6 June 1994 the applicants were given a suspended sentence of seven months imprisonment. The applicants lodged an appeal with the Naples Court of appeal. By a decision of 9 July 1996, the Naples Court of appeal acquitted the applicants, the offences being time-barred. This decision became final on 17 October 1996.

AS TO THE LAW

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

“I declare that the Government of Italy offer to pay 38,000,000 ITL to MM Antonio and Luigi Iuliano with a view to securing a friendly settlement of the application registered under No. 35756/97. This sum shall cover any pecuniary and non-pecuniary damage (15,000,000 ITL for each applicant) as well as legal costs (8,000,000 ITL for both applicants) and it will be payable immediately after 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 reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

10. On 22 September 1999, the Court received the following declaration, signed by one of the applicants' representatives:

"I note that the Government of Italy are prepared to pay 38,000,000 ITL (15,000,000 ITL for any pecuniary and non-pecuniary damage for each applicant and 8,000,000 ITL for legal costs for both applicants) to MM Antonio and Luigi Iuliano with a view to securing a friendly settlement of application No. 35756/97 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 reference of the case to the grand Chamber pursuant to Article 43 § 1 of the Convention after the delivery of the Court's judgment."

11. 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).

12. 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