



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

SECOND SECTION

CASE OF GIMIGLIANO v. ITALY

(Application no.30918/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

1 March 2001

In the case of Gimigliano v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr A.B. BAKA,

Mr B. CONFORTI,

Mr P. LORENZEN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr E. LEVITS,

Mr A. KOVLER, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 8 February 2001,

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

PROCEDURE

1. The case originated in an application (no. 30918/96) 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, Mrs Annalisa Gimigliano (“the applicant”), on 13 November 1995.

2. The applicant was represented by N. and M. Gimigliano, lawyers practising in Catanzaro. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito.

3. The applicant complained about her prolonged inability - through lack of police assistance - to recover possession of her apartment and about the duration of the eviction proceedings.

4. On 22 June 2000, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 21 December 2000 and on 20 December 2000, the applicant and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

6. The applicant is the owner of an apartment in Florence, which she had let to N.B. and M.L. In a writ served on the tenants on 26 July 1986, the applicant informed them that she intended to terminate the lease on expiry

of the term on 31 December 1986 and summoned them to appear before the Florence Magistrate.

7. By a decision of 13 October 1986, which was made enforceable on 23 October 1986, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 June 1988.

8. On 9 March 1989, the applicant made a statutory declaration that she urgently required the premises as accommodation for herself.

9. On 12 May 1989, the applicant served notice on the tenants requiring them to vacate the premises. On 31 May 1989, she served notice on the tenants informing them that the order for possession would be enforced by a bailiff on 15 June 1989.

10. Between 15 June 1989 and 13 November 1996, the bailiff made 19 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.

11. On 7 December 1996, the applicant repossessed the apartment with the assistance of the police.

THE LAW

12. On 21 December 2000, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 26,000,000 ITL to Mrs Annalisa GIMIGLIANO with a view to securing a friendly settlement of the application registered under no. 30918/96. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable immediately after the notification of the judgment delivered by the Court pursuant to the 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.”

13. On 21 December 2000, the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 26,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mrs Annalisa GIMIGLIANO with a view to securing a friendly settlement of application no. 30918/96 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 under Article 43 § 1 of the Convention after the delivery of the Court's judgment."

14. 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 Court).

15. 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 1 March 2001 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President