



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

SECOND SECTION

CASE OF SBORCHIA AND TOGNARINI v. ITALY

(Application no. 33116/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

1 March 2001

In the case of Sborchia and Tognarini 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. 33116/96) against Italy was 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 Giuseppe Sborchia and Mrs Maddalena Tognarini (“the applicants”), on 14 June 1996.

2. The applicants were represented by Mr G.L. Baldacci, a lawyer practising in Florence. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito.

3. The applicants complained about their prolonged inability - through lack of police assistance - to recover possession of their 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 10 January 2001 and on 20 December 2000, the applicants and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

6. The applicants are the owners of an apartment in Florence, which they had let to U.R.

7. In a writ served on the tenant on 29 June 1987, the applicants informed him that they intended to terminate the lease on expiry of the term

of 31 December 1987 and summoned the tenant to appear before the Florence Magistrate.

8. By a decision of 3 December 1987, which was made enforceable on 19 March 1988, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1988.

9. On 25 October 1989, the applicants made a statutory declaration that they urgently required the premises as accommodation for themselves.

10. On 6 July 1990 and again on 7 May 1992, the applicants served notice on the tenant requiring him to vacate the premises.

11. On 1 July 1992, they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 4 August 1992.

12. Between 4 August 1992 and 3 November 1997, the bailiff made 11 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.

13. On 23 December 1997, the applicants repossessed the premises.

THE LAW

14. On 20 December 2000, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 20,000,000 ITL to Mr Giuseppe SBORCHIA et Mrs Maddalena TOGNARINI with a view to securing a friendly settlement of the application registered under no. 33116/96. 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.”

15. On 10 January 2001, the Court received the following declaration signed by the applicants:

“I note that the Government of Italy are prepared to pay a sum totalling 20,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mr Giuseppe SBORCHIA et Mrs Maddalena TOGNARINI with a view to securing a friendly settlement of application no. 33116/96 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 applicants 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."

16. 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).

17. 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