



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

SECOND SECTION

CASE OF GERMANO v. ITALY

(Application no. 31379/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

29 March 2001

In the case of Germano 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 G. BONELLO,

Mrs V. STRÁZNICKÁ,

Mr P. LORENZEN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr A. KOVLER, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 8 March 2001,

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

PROCEDURE

1. The case originated in an application (no. 31379/96) 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, Mr Giancarlo Germano (“the applicant”), on 13 March 1996.

2. The applicant was represented by Mr E. Troisi, a lawyer practising in Turin. 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 his prolonged inability - through lack of police assistance - to recover possession of his apartment and about the duration of the eviction proceedings.

4. On 30 May 2000, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 15 January 2001 and on 29 January 2001, 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 Turin, which he had let to Y.A.H. In a registered letter of 14 March 1991, the applicant informed the tenant that the lease had expired on 30 September 1990 and asked him to vacate the premises, but the tenant refused to leave.

7. In a writ served on the tenant on 23 March 1991, the applicant summoned him to appear before the Turin Magistrate.

8. By a decision of 12 April 1991, which was made enforceable on 17 April 1991, the Turin Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1991.

9. On 9 June 1992 and again on 11 July 1994, the applicant served notice on the tenant requiring him to vacate the premises. In the meanwhile negotiations had taken place between the applicant and the tenant in order to settle their dispute, but they failed.

10. On 25 July 1994 the applicant served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 14 September 1994.

11. On 14 September 1994, the bailiff made one attempt to recover possession, which proved unsuccessful, as, under the statutory provisions providing for the staggering of evictions, the applicant was not entitled to police assistance in enforcing the order for possession.

12. On 28 February 1995, the applicant made a statutory declaration that he urgently required the premises as accommodation for himself.

13. Between 22 March 1995 and 29 July 1998, the bailiff made 13 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.

14. On 31 October 1998, the tenant vacated the premises.

THE LAW

15. On 29 January 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 40,000,000 ITL to Mr Giancarlo GERMANO with a view to securing a friendly settlement of the application registered under no. 31379/96. 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 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.”

16. On 15 January 2001, the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 40,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mr Giancarlo GERMANO with a view to securing a friendly settlement of application no. 31379/96 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.”

17. 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).

18. 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 29 March 2001 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President