



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

SECOND SECTION

CASE OF TARDUCCI v. ITALY

(Application no. 31460/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

19 April 2001

In the case of Tarducci 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,

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 29 March 2001,

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

PROCEDURE

1. The case originated in an application (no. 31460/96) 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 F. Tarducci ("the applicant"), on 14 November 1995.

2. The applicant was represented by Mr A. Tarducci, 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 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 12 February 2001 and on 2 February 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 Sesto Fiorentino (Florence), which she had let to E.C. In a registered letter of 13 June 1983, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 31 December 1987 and asked him to vacate the premises by that date. The tenant refused to leave.

7. In a writ served on the tenant on 10 January 1989, the applicant summoned the tenant to appear before the Florence Magistrate.

8. By a decision of 13 February 1989, which was made enforceable on 14 March 1989, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 13 February 1990. On 21 March 1990, the applicant served notice on the tenant requiring him to vacate the premises.

9. On 11 April 1990, she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 10 May 1990.

10. Between 10 May 1990 and 30 March 1993, the bailiff made 6 attempts to recover possession. Each attempt proved unsuccessful, as, under the statutory provisions providing for the suspension or the staggering of evictions, the applicant was not entitled to police assistance in enforcing the order for possession.

11. On 10 July 1993, the applicant had made a statutory declaration that she urgently required the premises as accommodation for herself and her husband.

12. Between 10 November 1993 and 20 September 1996, the bailiff made 7 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. Having reached a friendly settlement with the tenant, on 26 September 1996, the applicant repossessed the apartment.

THE LAW

14. On 2 February 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 50,000,000 ITL to Mrs Federica TARDUCCI with a view to securing a friendly settlement of the application registered under no. 31460/96. 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.”

15. On 12 February 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 50,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mrs Federica TARDUCCI with a view to securing a friendly settlement of application no. 31460/96 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.”

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 19 April 2001 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President