



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

FIRST SECTION

CASE OF BASTREGHI v. ITALY

(Application no. 33966/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

3 December 2001

In the case of Bastreghi v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr G. BONELLO,

Mrs F. TULKENS,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mrs S. BOTOCHAROVA, *judges*,

Mr G. RAIMONDI, *ad hoc judge*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 8 November 2001,

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

PROCEDURE

1. The case originated in an application (no. 33966/96) against the Italian Republic 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 Franco Bastreghi (“the applicant”), on 30 September 1996.

2. The applicant was represented before the Court by Mrs M. Falatti, 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 his prolonged inability – through lack of police assistance – to recover possession of his apartment and about the duration of the eviction proceedings.

4. On 22 March 2001, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 24 August 2001 and on 20 July 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 Florence, which he had let to A.D.G.

7. In a writ served on the tenant on 15 December 1989, the applicant informed the tenant of his intention to terminate the lease and summoned

him to appear before the Florence Magistrate. The first hearing was held on 14 January 1991. The applicant asked for a provisional order for possession. By a decision of 10 February 1992, the Florence Magistrate refused to make a provisional order.

8. By a decision of 5 October 1992 which was made enforceable on 1 December 1993, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 October 1993.

9. On 10 December 1993, the applicant served notice on the tenant requiring him to vacate the premises.

10. On 11 January 1994, he served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 3 March 1994.

11. Between 3 March 1994 and 8 April 1998, the bailiff made nine attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

12. On 15 October 1998, the tenant vacated the premises.

THE LAW

13. On 24 July 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 23,000,000 ITL to Mr Franco Bastregghi with a view to securing a friendly settlement of the application registered under no. 33966/96. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months starting from 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.”

14. On 10 September 2001, the Court received from the applicant’s representative the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 23,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mr Franco Bastregghi with a view to securing a friendly settlement of application no. 33966/96 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."

15. 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).

16. 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 3 December 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President