



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

FIRST SECTION

CASE OF LAMPERI BALENCI v. ITALY

(Application no. 31260/96)

JUDGMENT
(Friendly Settlement)

STRASBOURG

21 February 2002

In the case of Lamperi Balenci v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mrs F. TULKENS,

Mr G. BONELLO,

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 31 January 2002,

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

PROCEDURE

1. The case originated in an application (no. 31260/96) 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 Wilma Lamperi Balenci (“the applicant”), on 13 November 1996.

2. The applicant acted in person. 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 7 September 2000, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 11 September 2001 and on 18 October 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 she had let to M.N. In a registered letter of 26 July 1984, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 31 January 1985 and asked him to vacate the premises by that date.

7. In a writ served on the tenant on 31 December 1984, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Florence Magistrate.

8. By a decision of 9 December 1985, which was made enforceable on 3 January 1986, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 January 1986.

9. On 11 April 1986, the applicant served notice on the tenant requiring him to vacate the premises.

10. On 12 May 1986, she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 23 May 1986.

11. Between 23 May 1986 and 3 November 1998, the bailiff made twenty-eight 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 1 April 1999, the applicant recovered possession of her apartment.

THE LAW

13. On 18 October 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 46,000,000 ITL to Mrs Wilma Lamperi Balenci with a view to securing a friendly settlement of the application registered under no. 31260/96. 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 11 September 2001, the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay me a sum totalling 46,000,000 ITL covering both pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of application no. 31260/96 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 21 February 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President