



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

FIRST SECTION

CASE OF B. and F. v. ITALY

(Application no. 32671/96)

JUDGMENT
(Friendly Settlement)

STRASBOURG

21 February 2002

In the case of B. and F. 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 P. LORENZEN,

Mrs N. VAJIĆ,

Mr E. LEVITS,

Mr A. KOVLER, *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. 32671/96) 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 F.B. and Mrs G.F. (“the applicants”), on 8 August 1996.

2. The applicants were represented by Mrs L. Virando, 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 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 March 2001, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 15 October 2001 and on 26 October 2001, 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 Milan, which they had let to R.P. and S.C.S.

7. In a writ served on the tenants on 27 June 1988, the applicants communicated their intention to terminate the lease and summoned the tenants to appear before the Milan Magistrate.

8. By a decision of 13 July 1988, which was made enforceable on 6 September 1988, the Milan Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 13 July 1989.

9. On 10 April 1990, the applicants made a statutory declaration that they urgently required the premises as accommodation for their children.

10. On 24 May 1990, the applicants served notice on the tenants requiring them to vacate the premises.

11. On 3 June 1990, they served notice on the tenants informing them that the order for possession would be enforced by a bailiff on 13 July 1990.

12. Between 13 July 1990 and 11 December 1995, the bailiff made twenty-five attempts to recover possession. Each attempt proved unsuccessful, as the applicants were never granted the assistance of the police in enforcing the order for possession.

13. On 27 February 1996, the applicants repossessed the apartment.

THE LAW

14. On 26 October 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 25,000,000 ITL to Mr F.B. and Mrs G.F. (12,500,000 ITL for each applicant) with a view to securing a friendly settlement of the application registered under no. 32671/96. 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 referral of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

15. On 15 October 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 25,000,000 ITL (12,500,000 ITL for each applicant) covering both pecuniary and non-pecuniary damage and costs to Mr F.B. and Mrs G.F. with a view to securing a friendly settlement of application no. 32671/96 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 referral 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 21 February 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President