



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

FIRST SECTION

CASE OF PANE v. ITALY

(Application no. 37509/97)

JUDGMENT
(Friendly Settlement)

STRASBOURG

21 February 2002

In the case of Pane 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. 37509/97) 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, Mrs P. and Mr A. Pane (“the applicants”), on 3 February 1997.

2. The applicants were represented by Mr C. Napoli, a lawyer practising in Salerno. 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 May 2001, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 6 November 2001 and on 19 November 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 Positano, which they had let to G.D.

7. In a writ served on the tenant on 12 December 1986, the applicants communicated their intention to terminate the lease and summoned the tenant to appear before the Amalfi Magistrate.

8. On 30 January 1987, by a provisional decision the magistrate upheld the validity of the notice to quit and ordered that the premises must be vacated by 31 March 1989. He ordered that the proceedings must continue on the merits.

9. By a judgment of 22 December 1989, the text of which was deposited with the registry on the same day, the Amalfi Magistrate declared the lease terminated on 31 December 1987 and confirmed that the premises must be vacated by 31 March 1989.

10. On 3 August 1990, the applicants served notice on the tenant requiring him to vacate the premises.

11. On 18 October 1990, they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 23 October 1990.

12. On 23 October 1990, the bailiff made an attempt to recover possession, which proved unsuccessful, as, under the statutory provisions providing for the staggering of evictions, the applicants were not entitled to police assistance in enforcing the order for possession. He then suspended the enforcement proceedings until the Prefect would grant the assistance of the police.

13. On 7 May 1996, the first applicant made a statutory declaration that he urgently required the premises as accommodation for his spouse.

14. On an unspecified date, the applicants resumed the enforcement proceedings.

15. On 18 July 1997, the tenant vacated the premises.

THE LAW

16. On 19 November 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 9,000,000 ITL (4,500,000 ITL to each applicant) to Mrs Petronilla PANE and Mr Antonino PANE with a view to securing a friendly settlement of the application registered under no. 37509/97. 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.”

17. On 6 November 2001, the Court received from the applicants' representative the following declaration signed by the applicants:

"I note that the Government of Italy are prepared to pay a sum totalling 9,000,000 ITL (4,500,000 to each applicant) covering both pecuniary and non-pecuniary damage and costs to Mrs Petronilla PANE and Mr Antonino PANE with a view to securing a friendly settlement of application no. 37509/97 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."

18. 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).

19. 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