



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

FIRST SECTION

CASE OF T. v. ITALY

(Application no. 40537/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

13 June 2002

This judgment is final but it may be subject to editorial revision.

In the case of T. v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr L. FERRARI BRAVO,

Mr G. BONELLO,

Mr P. LORENZEN,

Mrs S. BOTOCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 28 May 2002,

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

PROCEDURE

1. The case originated in an application (no. 40537/98) 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 T. (“the applicant”), on 11 March 1998.

2. The applicant was represented by Mrs E. Filippello, 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 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. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 13 September 2001 having obtained the parties' observations, the Court declared the application admissible.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section.

6. On 7 May 2002 and on 10 May 2002 the applicant and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

7. The applicant is the owner of an apartment in Turin, which she had let to A.P.

8. In a registered letter of 12 May 1987, 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.

9. In a writ served on the tenant on 19 June 1987, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Turin Magistrate.

10. The tenant opposed alleging that the lease expired on 30 June 1991.

11. By a decision of 30 March 1988, the Turin Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 June 1992.

12. On 4 September 1992, the applicant served notice on the tenant requiring him to vacate the premises.

13. On 1 October 1992, she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 6 November 1992.

14. Between 6 November 1992 and 23 April 1997, the bailiff made seven attempts to recover possession. On an unspecified day in October 1997, the applicant recovered possession of the apartment because the tenant vacated the premises.

THE LAW

15. On 10 May 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 2,600 (two thousand six hundred) Euros to Mrs M.T. with a view to securing a friendly settlement of the application registered under no. 40537/98. 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.”

16. On 7 May 2002 the Court received from the applicant's representative the following declaration signed by the applicant and by her representative:

“I note that the Government of Italy are prepared to pay a sum totalling 2,600 (two thousand six hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs M.T. with a view to securing a friendly settlement of application no. 40537/98 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 referral of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment.”

17. 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).

18. 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 13 June 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President