



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

FIRST SECTION

CASE OF TACCHINO and SCORZA v. ITALY

(Application no. 34714/97)

JUDGMENT
(Friendly settlement)

STRASBOURG

18 July 2002

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

In the case of Tacchino and Scorza 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*,

Mrs M. DEL TUFO, *ad hoc judge*

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 4 July 2002,

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

PROCEDURE

1. The case originated in an application (no. 34714/97) 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 two Italian nationals, Mr Eugenio Tacchino and Mrs Maria Rosa Scorza (“the applicants”), on 19 October 1996.

2. The applicants were represented by Mr O. Gentile, a lawyer practising in Rome. 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. 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 4 October 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 29 April 2002 and on 13 May 2002 the applicants and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

7. Mrs G.F. was the owner of an apartment in Rome, which she had let to L.N.

8. In a writ served on the tenant on 15 April 1983, she communicated her intention to terminate the lease and summoned the tenant to appear before the Rome Magistrate.

9. By a decision of 12 May 1983, which was made enforceable on the same day, the Rome Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 September 1984. Upon the tenant's request, the Rome Magistrate postponed the execution of the order for possession to 31 January 1985.

10. On 4 February 1986, Mrs G.F. served notice on the tenant requiring her to vacate the premises. On 27 February 1986, she served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 30 April 1986.

11. Between 30 April 1986 and 26 October 1989, the bailiff made sixteen attempts to recover possession.

12. On 15 November 1989, the applicants became the owners of the apartment.

13. After four unsuccessful attempts by the bailiff to evict the tenant, the applicants made a statutory declaration that they urgently required the premises as accommodation for their daughter.

14. Between 14 November 1990 and 23 October 1998, the bailiff made thirty-six attempts to recover possession.

15. Each attempt proved unsuccessful, as the applicants were never granted the assistance of the police in enforcing the order for possession.

16. On 26 November 1998, the tenant vacated the premises.

THE LAW

17. On 13 May 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay a sum totalling 6,500 (six thousand five hundred) Euros to Mr Eugenio Tacchino and Mrs Maria Rosa Scorza (3,250 Euros to each applicant) with a view to securing a friendly settlement of the application registered under no. 34714/97. 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.”

18. On 29 April 2002 the Court received from the applicants' representative the following declaration signed by the applicants and by the applicants' representative:

“I note that the Government of Italy are prepared to pay a sum totalling 6,500 (six thousand five hundred) Euros (3,250 Euros to each applicant) covering both pecuniary and non-pecuniary damage and costs to Mr Eugenio Tacchino and Mrs Maria Rosa Scorza with a view to securing a friendly settlement of application no. 34714/97 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.”

19. 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).

20. 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 18 July 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President