



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

FIRST SECTION

CASE OF CALVAGNO v. ITALY

(Application no. 41624/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

3 October 2002

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

In the case of Calvagno 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 L. FERRARI BRAVO, *ad hoc judge*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 12 September 2002,

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

PROCEDURE

1. The case originated in an application (no. 41624/98) 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, Mr Giuseppe Calvagno (“the applicant”), on 19 March 1998.

2. The applicant was represented by Mrs A.R. Penna, 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 his prolonged inability - through lack of police assistance - to recover possession of his 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.

5. On 4 October 2001, having obtained the parties' observations, the Court declared the application admissible.

6. On 27 June 2002 and on 10 July 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 he had let to F.C.

8. In a registered letter of 7 June 1991, the applicant informed the tenant that he intended to terminate the lease on expiry of the term on 31 December 1991 and asked him to vacate the premises by that date.

9. On 29 June 1991, he served a notice to quit on the tenant, but he refused to leave.

10. In a writ served on the tenant on the same day, the applicant reiterated his intention to terminate the lease and summoned the tenant to appear before the Turin Magistrate.

11. By a decision of 2 October 1991, which was made enforceable on the same day, the Turin Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1992.

12. On 23 January 1993, the applicant served notice on the tenant requiring him to vacate the premises.

13. On 10 December 1992, the applicant made a statutory declaration that he urgently required the premises as accommodation for himself.

14. On 24 February 1993, he served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 6 April 1993.

15. Between 6 April 1993 and 16 March 1999, the bailiff made eighteen attempts to recover possession. Each attempt proved unsuccessful, as the applicant was never granted the assistance of the police in enforcing the order for possession.

16. Pursuant to Law 431/98, the period of enforcement of the order was suspended.

17. On an unspecified date of June 1999, the tenant vacated the premises and the applicant recovered possession of the apartment.

THE LAW

18. On 10 July 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 7,200 (seven thousand two hundred) Euros to Mr Giuseppe Calvagno with a view to securing a friendly settlement of the application registered under no. 41624/98. 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.”

19. On 27 June 2002, the Court received from the applicant's representative the following declaration signed by the applicant and applicant's representative:

“I note that the Government of Italy are prepared to pay a sum totalling 7,200 (seven thousand two hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mr Giuseppe Calvagno with a view to securing a friendly settlement of application no. 41624/98 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.”

20. 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).

21. 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 3 October 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President