



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

FIRST SECTION

CASE OF BIFFONI v. ITALY

(Application no. 46079/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

24 October 2002

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

In the case of Biffoni 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,

Mr V. ZAGREBELSKY, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 10 October 2002,

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

PROCEDURE

1. The case originated in an application (no. 46079/99) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mrs Vittoria Biffoni (“the applicant”), on 13 January 1999.

2. The applicant was represented by Mr L. Spina, a lawyer practising in Florence. 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. On 31 January 2002, after obtaining the parties' observations, the Court declared the application admissible

5. On 11 September 2002 and on 18 September 2002 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant is the owner of an apartment in Florence, which she had let to R.U.

7. In a writ served on the tenant on 19 September 1986, the applicant informed the tenant of her intention to terminate the lease and summoned her to appear before the Florence Magistrate.

8. By a decision of 28 October 1986, which was made enforceable on the same day, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1988.

9. On 30 May 1989 the applicant made a statutory declaration that she urgently required the premises as accommodation for herself.

10. On 7 July 1989 the applicant served notice on the tenant requiring her to vacate the premises.

11. On 15 September 1989 she served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 6 October 1989.

12. Between 6 October 1989 and 26 June 1998 the bailiff made nineteen 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.

13. On 23 July 1998, the tenant spontaneously vacated the premises and the applicant recovered possession of the apartment.

THE LAW

14. On 18 September 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 7,500 (seven thousand five hundred) Euros to Mrs Vittoria Biffoni with a view to securing a friendly settlement of the application registered under no. 46079/99. 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 11 September 2002 the Court received the following declaration signed by the applicant's representative:

“I note that the Government of Italy are prepared to pay a sum totalling 7,500 (seven thousand five hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs Vittoria Biffoni with a view to securing a friendly settlement of application no. 46079/99 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.”

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

Erik FRIBERGH
Registrar

Christos ROZAKIS
President