



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

FIRST SECTION

CASE OF DI TULLIO v. ITALY

(Application no. 34435/97)

JUDGMENT
(Friendly settlement)

STRASBOURG
9 January 2003

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

In the case of Di Tullio 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 S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 12 December 2002,

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

PROCEDURE

1. The case originated in an application (no. 34435/97) 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, Mr Biagio Di Tullio (“the applicant”), on 18 July 1996.

2. The applicant was represented before the Court by Mrs G. Mazza Ricci and Mr M. Ricci, lawyers practising in Rome.

3. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito.

4. 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.

5. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

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

7. On 29 October 2002 and on 13 November 2002, the applicant and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

8. The applicant is the owner of an apartment in Rome, which he had let to P.D.

9. In a writ served on the tenant on 25 May 1991, the applicant communicated his intention to terminate the lease on expiry of the term on 31 December 1991 and summoned the tenant to appear before the Rome Magistrate.

10. By a decision of 21 October 1991, 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 15 November 1992.

11. On 2 December 1992, the applicant served notice on the tenant requiring him to vacate the premises.

12. On 11 January 1993, he served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 16 February 1993.

13. On 11 February 1993, the applicant made a statutory declaration that he urgently required the premises as accommodation for himself.

14. Between 16 February 1993 and 12 May 1998, the bailiff made thirteen 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.

15. At the end of June 1998, the tenant vacated the premises.

THE LAW

16. On 13 November 2002, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 4,500 (four thousand five hundred) Euros to Mr Biagio Di Tullio with a view to securing a friendly settlement of the application registered under no. 34435/97. 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 29 October 2002, the Court received from the applicant's representative the following declaration signed by the applicant's representative:

“I note that the Government of Italy are prepared to pay a sum totalling 4,500 (four thousand five hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mr Biagio Di Tullio with a view to securing a friendly settlement of application no. 34435/97 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 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.”

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 9 January 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President