



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

FIRST SECTION

CASE OF TAMMA v. ITALY

(Application no. 43616/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

10 April 2003

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

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

Having deliberated in private on 20 March 2003,

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

PROCEDURE

1. The case originated in an application (no. 43616/98) 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 Marianna Tamma (“the applicant”), on 2 May 1998.

2. The applicant was represented by Mr L. Bondi, a lawyer practising in Livorno. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their successive co-agents, respectively Mr V. Esposito and Mr F. Crisafulli.

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.

5. On 31 January 2002, having obtained the parties’ observations, the Court declared the application admissible.

6. On 10 January 2003 and on 20 February 2003 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. The applicant is the owner of an apartment in Livorno, which she had let to P.B.C.

8. In a registered letter of 13 April 1987, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 31 December 1987 and asked her to vacate the premises by that date.

9. In a writ served on the tenant on 22 April 1989, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Livorno Magistrate.

10. By a decision of 15 May 1989, which was made enforceable on the same day, the Livorno Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 November 1989.

11. On 20 January 1990, the applicant served notice on the tenant requiring her to vacate the premises.

12. On 31 March 1990, she served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 18 April 1990.

13. Between 18 April 1990 and 18 November 1998, the bailiff made fourteen attempts to recover possession. Each attempt proved unsuccessful, as, under the statutory provisions providing for the suspension, the applicant was not entitled to police assistance in enforcing the order for possession.

14. On an unspecified date of May 2000, the applicant recovered possession of the apartment because the tenant vacated the premises spontaneously.

THE LAW

15. On 10 January 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 6,500 (six thousand five hundred) Euros to Mrs Marianna Tamma with a view to securing a friendly settlement of the application registered under no. 43616/98. 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 20 February 2003 the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 6,500 (six thousand five hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs Marianna Tamma with a view to securing a friendly settlement of application no. 43616/98 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). In this connection the Court considers that it has already specified the nature and extent of the obligations which arise for the respondent Government in cases concerning eviction of tenants (see *Immobiliare Saffi v. Italy* [GC], no. 22774/93, ECHR 1999-V), and the implementation thereof is currently pending before the Committee of Ministers. Therefore, a continuation of the examination of the present application is not required. In these circumstances the Court accepts 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 10 April 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President