



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

SECOND SECTION

CASE OF TIERCE v. SAN MARINO

(Application no. 69700/01)

FINAL

03/12/2003

JUDGMENT

STRASBOURG

17 June 2003

In the case of Tierce v. San Marino,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr J.-P. COSTA, *President*,

Mr L. LOUCAIDES,

Mr C. BÎRSAN,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs W. THOMASSEN,

Mrs A. MULARONI, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 27 May 2003,

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

PROCEDURE

1. The case originated in an application (no. 69700/01) against the Republic of San Marino lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a French national, Mrs Vanessa Sandra Tierce (“the applicant”), on 4 December 2000.

2. The applicant was represented by Ms M. Selva, of the San Marino Bar. The San Marino Government (“the Government”) were represented by Mr L.L. Leopoldo Daniele, Agent, and Mr G. Bellati Ceccoli, Co-Agent.

3. On 3 September 2002 the Second Section decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1972 and lives in Pesaro (Italy).

5. The facts of the case, as submitted by the parties, may be summarised as follows.

6. By a writ filed on 11 March 1993 C.R., a bank, brought proceedings against Mrs Tierce before the *Commissario della legge* (“the *Commissario*”) seeking termination of her lease and an eviction order against her for non-payment of her rent. On 26 March 1993 the *Commissario* authorised the

commencement of the action against the applicant and summoned the parties to appear on 7 April 1993. As the applicant did not attend the hearing the case was listed for 7 May 1993. On 29 April 1993 the applicant deposited with the registry a bankbook (*libretto al portatore*), mentioning a sum to be handed over to the claimant bank if it were to accept a settlement out of court.

7. On 13 May 1993 C.R. claimed the sum in question, the *Commissario* ordered notification of the claim to the applicant and gave her five days to file her submissions. On 3 June 1993, as Mrs Tierce had not filed any observations, C.R. repeated its claim of 13 May.

8. On 17 June 1993 C.R. declared that it did not wish to withdraw its action, even if it obtained the sum concerned. On the following day the *Commissario* gave the applicant five days to file submissions.

9. At a hearing on 9 September 1993 the applicant confirmed her offer of 29 April 1993 and asked for the money to be attached to guarantee payment. C.R. objected, seeking the applicant's eviction. On the same day the *Commissario* scheduled a hearing for 7 October 1993, which was later put back by one week because he had another engagement, for the attempt to reach a friendly settlement prescribed by law in eviction cases (section 21 of Law no. 26 of 20 February 1991); when that attempt came to nothing the *Commissario* opened the first of two time-limited stages for adducing evidence, each waivable by the claimant (*primo termine probatorio* – see paragraph 22 below). On 30 October 1993 he opened the second such stage (*secondo termine probatorio*).

10. On 9 December 1993 the applicant asked the *Commissario* to open the first of two further time-limited stages waivable by the defendant (*primo termine reprobatorio*), and he did so on 10 December 1993. On 23 December 1993 the applicant asked for evidence to be taken from a witness. The *Commissario* listed a hearing for that purpose to take place on 17 February 1994, but on that date the witness failed to appear. On 3 March 1994 the applicant filed documents, and on 21 March 1994 the *Commissario* asked her to inform him whether she wished to maintain her request for witness evidence to be taken. On 25 March 1994, at the applicant's request, the *Commissario* listed a new hearing for that purpose to take place on 28 April 1994, later adjourned to 20 May 1994 on account of another engagement. As the witness failed to appear, the *Commissario* fixed a new hearing for 14 June 1994, that being the last opportunity to hear the witness. On 8 September 1994 C.R. asked the *Commissario* to declare that the witness could no longer be called, having failed to appear within the time allowed; on 13 September 1994 the *Commissario* allowed that application.

11. On 22 September 1994 Mrs Tierce requested the opening of the next time-limited stage (*secondo termine reprobatorio*); the *Commissario* complied with that request on the following day. On 6 October 1994

Mrs Tierce asked for evidence to be taken from another witness, who was examined on 1 December 1994.

On 15 December 1994 the applicant asked the *Commissario* to open the fifth and last time-limited stage for the completion of the evidence-taking (*termine di controprova*), which he did the next day. On 3 February 1995 the *Commissario* observed that the time allowed for the last stage of the presentation of evidence had expired. On 16 February 1995 the applicant asked for the return of a cheque that she had previously deposited with the registry. On the next day the *Commissario* gave C.R. five days to make its final submissions. On 2 March 1995 C.R. asked Mrs Tierce to vacate the premises, as her lease had expired on 31 December 1994. On 13 March 1995 the *Commissario* gave the applicant five days to submit her observations.

12. On 9 March 1995 C.R. had again applied to the *Commissario* for an eviction order against the applicant, as it needed the building in order to carry on its own business there. On the next day the *Commissario* scheduled a hearing for 6 April 1995 for the attempt to reach a friendly settlement prescribed by Law no. 26 of 20 February 1991.

On 24 March 1995, at the request of C.R., with no objection on the applicant's part, the two cases were joined on account of the connection between them as regards their subject matter and the identity of the parties.

13. On 6 April 1995 Mrs Tierce declared that she was prepared to vacate the premises in exchange for compensation. The case was adjourned for thirty days to give the parties time to reach an agreement on that point.

On 22 June 1995 the applicant requested the opening of the statutory five-week period for the submission of objections (*termine statutorio per rispondere ed eccepire*), and the *Commissario* allowed that application on the following day. On 5 October 1995, as the applicant had not raised any objection, C.R. requested the opening of the first *termine probatorio*. On the following day the *Commissario* observed that the time allowed for the applicant to lodge objections had not yet expired. On 19 October 1995 the applicant asserted that her lease had not yet run out.

On 20 October 1995 the *Commissario* gave C.R. five days to submit observations. On 26 October C.R. contested Mrs Tierce's assertion. On the next day the *Commissario* gave Mrs Tierce five days to submit observations.

14. On 8 February 1996 C.R. again sought an order for the applicant's eviction, and the *Commissario* gave her five days to submit observations. On 22 February 1996 the applicant confirmed what she had asserted on 19 October 1995, and on the following day the *Commissario* gave C.R. five days to submit observations.

On 7 March 1996 C.R. requested the opening of the second *termine probatorio* (thus waiving the right to the time allowed for the first stage). On the following day the *Commissario* gave Mrs Tierce five days to submit

observations and opened the second stage. On 14 March 1996 C.R. filed documents. On 21 March 1996 the applicant submitted that C.R.'s assertions were ill-founded in fact and in law, and on the following day the *Commissario* gave C.R. five days to submit observations.

On 11 April 1996 C.R. requested the opening of the first *termine reprobatorio*, and on 15 April 1996 the *Commissario* decided to close the proceedings on account of the parties' inaction. On 18 April 1996 C.R. again requested the opening of the first *termine reprobatorio*. The next day the *Commissario* rescinded his decision of 15 April 1996 as having been taken on the basis of a mistake as to the facts and opened the first *termine reprobatorio*. On 25 April 1996 C.R. asked for a date to be fixed for oral argument and the examination of one witness; on the following day the *Commissario* arranged a hearing for that purpose, to be held on 20 June 1996. On 15 May 1996 the witness indicated that he could not attend the hearing on the date chosen. On 13 September 1996, at C.R.'s request, the *Commissario* decided to hold a new hearing on 26 September 1996, on which date evidence was taken from the witness. On 3 October 1996 C.R. asked for a date to be fixed for the presentation of oral argument; on the following day the *Commissario* set the case down for hearing on 17 October 1996.

On that day C.R. withdrew its request for an adversarial hearing and requested the opening of the second *termine reprobatorio*. On the following day the *Commissario* gave the applicant five days to submit observations. On 7 November 1996 C.R. again asked the *Commissario* to open the second *termine reprobatorio*, and he did so on 8 November 1996. On 28 November 1996 C.R. asked for evidence to be taken from a witness; on the following day the *Commissario* arranged a hearing for that purpose to be held on 13 February 1997, at which the witness gave evidence.

15. On 27 February 1997 Mrs Tierce requested the opening of the *termine di controprova*, and the *Commissario* allowed that application on the following day. On 13 March 1997 the applicant filed documents and asked for an expert report and the convening of an arbitration board. On the following day the *Commissario* gave C.R. five days to file observations. On 20 March 1997 C.R. requested Mrs Tierce's immediate eviction and asked for a witness to be called; on the following day the *Commissario* arranged a hearing for that purpose to be held on 8 May 1997, when a witness gave evidence. On 15 May 1997 C.R. asserted that it had not received instructions from the judge about the appointment of an expert, and the applicant repeated her request for the convening of an arbitration board and confirmed the appointment of her expert. On 26 May 1997 the *Commissario* asked C.R. to appoint its expert and on 19 June 1997 the applicant asked the *Commissario* to repeat his request of 26 May 1997. On 30 June 1997 the *Commissario* gave C.R. five days to file observations. On 18 September 1997 the applicant again asked for an arbitration board to be convened and

an expert appointed. On the following day the *Commissario* asked C.R. to specify how much the applicant owed it. On 23 October 1997 the applicant repeated her request of 18 September 1997. On the following day the *Commissario* observed that C.R. had not expressed an opinion on either the convening of an arbitration board or the expert report. On 6 November 1997 C.R. indicated the amount of the applicant's debt and on the following day the *Commissario* gave her five days to file observations.

16. On 11 December 1997, noting that all five time-limited stages for the presentation of evidence had expired, C.R. requested the opening of the time-limited stage for the filing of final submissions (*termine ad allegare*); the *Commissario* allowed that application on 15 December 1997.

On 19 February and 12 March 1998 C.R. and Mrs Tierce filed their final submissions.

The *Commissario* reserved judgment (*irrotulazione*) at a hearing on 26 March 1998.

17. In a judgment of 28 August 1998 the *Commissario* ordered the applicant to vacate the premises with immediate effect.

18. On 22 October 1998 Mrs Tierce appealed to the judge of civil appeals (*Giudice delle appellazioni civili*) and on 30 October 1998 she summoned C.R. On 3 November 1998 the *Commissario* authorised the summons and a hearing was set down for 10 December 1998 so that the parties' lawyers could enter an appearance.

On 3 December 1998, as the first-instance judgment was enforceable with immediate effect, C.R. asked for the applicant to be evicted, which was done on 22 February 1999.

On 29 April 1999 the applicant asked the *Commissario* to open the first *termine probatorio*, which he did the next day. On 20 May 1999 she asked for C.R. to be served with the decision to open the previous stage.

On 23 September 1999 C.R. asked the *Commissario* to open the second *termine probatorio*, which he did on 27 September 1999. On 7 October 1999 C.R. asked for that decision to be served on the applicant.

On 18 November 1999 the applicant requested the opening of the first *termine reprobatorio*; the *Commissario* allowed her application on the following day. On 25 November 1999 the applicant asked for that decision to be served on C.R. On 13 January 2000 she filed documents.

19. On 27 January 2000 C.R. asked the *Commissario* to open the second *termine reprobatorio*, and he did so on 2 February 2000. On 24 February 2000 C.R. asked for the sum recorded in the bankbook (deposited by the applicant on 29 April 1993) to be checked and the accrued interest added; this was done by the registrar on 8 March 2000.

On the following day C.R. requested the opening of the *termine di controprova*, and the *Commissario* complied in a decision of 13 March 2000. On 16 March 2000 C.R. asked for that decision to be rescinded, as the decision of 2 February 2000 had not yet been served. The *Commissario*

allowed the above application on 17 March 2000. On 23 March 2000 C.R. again asked for the decision of 2 February 2000 to be served. On 6 April 2000, C.R. indicated that it wished to have evidence taken from two witnesses and the *Commissario* set down a hearing for that purpose on 25 May 2000, but the witnesses failed to appear. On 29 June 2000, at C.R.'s request, the *Commissario* arranged for a new and final hearing to be held on 12 October 2000 for the witnesses to be examined; only one witness gave evidence on that occasion.

On 19 October 2000 Mrs Tierce asked the *Commissario* to fix the *termine di controprova*, which he did on 20 October. On 6 November 2000 the *Commissario* corrected a clerical error. On 23 November 2000 the applicant deposited a cheque with the registry.

On 18 January 2001 she asked for the opening of the time allowed for the filing of final submissions; the *Commissario* complied on the following day. On 29 March and 5 April 2001 the parties filed their final submissions.

20. On 6 April 2001 the *Commissario* set down for 10 May 2001 the hearing for the appearance of the parties and transmission of the file to the judge of civil appeals for judgment to be reserved.

In a judgment of 24 October 2001, published on 21 December 2001, the judge of civil appeals upheld the applicant's appeal in part by reducing the arrears of rent to be paid.

II. RELEVANT DOMESTIC LAW

21. Under Title VI of Book II of the *Leges Statutae*, once the claimant has appeared and confirmed that he wishes to bring an action the judge must give the defendant, if he so requests, time equivalent to five hearings (corresponding to five weeks) to reply and raise objections.

22. Under section 2 of Law no. 55 of 17 June 1994,

(a) evidence may be adduced by the parties, both at first instance and on appeal, during five time-limited stages, divided up as follows:

(i) two *termini probatori*, each lasting for three consecutive hearings (three weeks);

(ii) two *termini reprobatori*, each lasting for three consecutive hearings;

(iii) a *termine di controprova*, lasting for two consecutive hearings;

(b) the *termini probatori*, the *termini reprobatori* and the *termine di controprova* are opened by the judge at the request of the most diligent party, in succession, when all the evidence adduced in the previous stages has been admitted, or when the time allowed for those stages has been waived or has expired;

(c) *termini probatori* can be waived unilaterally by the claimant; *termini reprobatori* can be waived by the defendant only; the *termine di controprova* cannot be waived except with the consent of all parties;

(d) the *termine ad allegare* (the time-limited stage for the filing of the parties' final submissions) is opened by the judge at the request of the most diligent party; it lasts for sixty ordinary days. Once the time allowed for the parties to file their final submissions has expired, the registry transmits the file to the judge within ten days. The judge, of his own motion, sets down a hearing at which judgment will be reserved and keeps the file with a view to reaching his decision;

(e) the judge gives his decision within five months of the hearing at which he reserves judgment.

23. Title IV of Law no. 26 of 20 February 1991 (the "Sole law on the renting of immovable property") contains the following procedural rules:

Section 21

(Jurisdiction of the *Commissario della legge*)

"Disputes about the level of rent, termination of the lease at or before the end of its term or failure to comply with its conditions fall in the first instance within the jurisdiction of the *Commissario della legge*.

Judicial proceedings must be preceded by an attempt to reach a friendly settlement conducted by the *Commissario della legge*.

Judgments are immediately enforceable even in the event of an appeal, save where the *Commissario della legge* decides otherwise.

Judgments concerning the level of rent take effect between the parties immediately.

The *Commissario della legge*, after considering the application for an eviction order and assessing the grounds advanced, may order immediate enforcement of such a measure within the time specified."

Section 22

(Delayed payment by the tenant)

"In the event of a delay in payment, at the first hearing of the termination proceedings the judge may, if requested to do so, allow the tenant not more than ninety days to put matters right. Payment of arrears of rent, service charges, statutory interest and costs shall prevent termination of the lease.

The period of grace mentioned in the first paragraph may be granted to the tenant only once in any two-year period."

Section 23
(Date of execution)

“Where, in his decision, the judge orders the tenant to vacate the premises, he shall, after taking into account the arguments of the opposing parties, fix the date of enforcement not more than six months after the date on which the decision itself takes effect.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

24. The applicant alleged that the length of the proceedings had infringed the reasonable time principle enshrined in Article 6 § 1 of the Convention, which provides:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

25. The Government disputed that submission.

26. The period to be considered began on 11 March 1993 and ended on 21 December 2001. It therefore lasted approximately eight years and nine months, at two levels of jurisdiction.

A. Admissibility

27. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, and no other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

B. Merits

28. The Government asserted in the first place that the case was “rather complex from the legal classification point of view” since it concerned a sub-tenancy closely bound up with the transfer of a company, further complicated by the change of owner of the property in question. They also emphasised the “great factual complexity of the dispute, with the difficulties inherent in verification of a significant proportion of the circumstances of the case”.

The Government further submitted that the parties were largely responsible for the length of the proceedings, as evidenced by the twenty-one-month period during which attempts to reach a friendly settlement of

the dispute went on. Citing *Laino v. Italy* ([GC], no. 33158/96, ECHR 1999-I), the Government observed that delays of this type could not be imputed to the State. In addition, the proceedings had remained practically suspended on account of the applicant's repeated requests for a witness to be examined. The application for the applicant's eviction made by C.R. in 1995 had further delayed the end of the proceedings. The applicant also bore some degree of responsibility, as she had not opposed the joinder of the two sets of proceedings (cases nos. 83/1993 and 73/1995).

In conclusion, the applicant had benefited from the delays in the proceedings and played her part in prolonging them through her dilatory conduct. In the light of the foregoing, and the fact that San Marino civil procedure was governed by the "*principio dispositivo*", which left it to the parties to decide what steps to take and when, the Government asked the Court to hold that there had been no violation of Article 6 § 1 of the Convention.

29. The applicant observed that the delays attributable to the requests for the examination of the witness concerned (see paragraph 10 above) could not be imputed to her since "the national procedure [had been] followed".

30. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and having regard to the criteria laid down in its case-law, in particular the complexity of the case, the conduct of the applicant and of the relevant authorities and what is at stake for the applicant in the litigation (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

31. Unlike the Government, the Court does not consider that the issues to be resolved were of such difficulty as to make the case complex in fact and in law. As regards the conduct of the parties, and more especially the attempts they made to reach a friendly settlement, the Court observes that, unlike the situation in *Laino*, where the parties had requested and obtained adjournments while trying to resolve the dispute between them out of court (judgment cited above, §§ 8 and 22), in the present case the attempts in question took place during the trial itself (see paragraphs 9 and 13 above). The Court notes that the applicant did not oppose joinder of the two sets of civil proceedings (cases nos. 83/1993 and 73/1995), which she could have done, thus reducing the length of the case, and that it was often the claimant, not her, who asked the judge to open the next time-limited stage for the presentation of evidence. Furthermore, the purpose of the domestic proceedings was to secure the applicant's eviction from premises which she continued to occupy until 22 February 1999.

While it is true that the domestic civil procedure leaves it to the parties to decide what steps to take and when, the Court points out that such a principle does not absolve Contracting States from the obligation to ensure compliance with the requirements of Article 6 regarding a reasonable time

(see, for example, *Frydlender*, cited above, § 45). The Court considers that the applicant's conduct alone is not sufficient to explain the length of the proceedings, which lasted for approximately eight years and nine months. The length of that period was mainly due to the complexity of San Marino procedure – marked, where the parties do not waive their rights, by the need to go through all five time-limited stages, namely the first and second *termini probatori*, the first and second *termini reprobatori* and the *termine di controprova* (see paragraph 22 above) both at first instance and on appeal, which does not help to expedite the proceedings – and to the fact that in civil matters the judge is not empowered to take the initiative in the event of inaction by the parties. Lastly, as regards what was at stake in the proceedings for the applicant, the Court merely notes that, according to the information supplied by the Government and not contradicted by the applicant, she ceased to carry on her business on the premises as early as 1995.

Consequently, the Court considers that the period in issue cannot as such be considered to satisfy the “reasonable time” requirement of Article 6 § 1.

32. The above considerations are sufficient for the Court to be able to conclude that the applicant's case was not heard within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

33. Under Article 41 of the Convention,

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage and costs and expenses

34. The applicant sought reparation for the damage she claimed to have sustained and reimbursement of the costs and expenses for the proceedings before the Court. She asked the Court to determine the relevant amounts.

35. The Government submitted that the applicant was not entitled to any compensation under Article 41 of the Convention on account of the fact that she had “benefited considerably from the length she complained of before the Court”.

36. The Court sees no causal link between the violation found and any pecuniary damage, and dismisses the claim under that head. On the other hand, it considers that the applicant should be awarded 2,500 euros for non-pecuniary damage.

As regards the costs and expenses for the proceedings before it, the Court reiterates that, according to its case-law, an applicant may obtain reimbursement of costs and expenses only in so far as they have been shown to have been actually and necessarily incurred and to be reasonable as to quantum. In the present case, having regard to the material in its possession and the above-mentioned criteria, the Court dismisses this claim as unsubstantiated.

B. Default interest

37. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT

1. *Declares* the application admissible unanimously;
2. *Holds* by six votes to one that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* by six votes to one
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 2,500 (two thousand five hundred euros) for non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* unanimously the remainder of the claim for just satisfaction.

Done in French, and notified in writing on 17 June 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the dissenting opinion of Mrs Thomassen is annexed to this judgment.

J.-P.C.
S.D.

DISSENTING OPINION OF JUDGE THOMASSEN

(Translation)

1. This case concerned civil proceedings which lasted five years and five months at first instance and three years and two months on appeal.

2. The proceedings were brought to obtain the applicant's eviction from premises where she was carrying on her occupation.

3. My colleagues consider that the proceedings were too lengthy and hold the State responsible on the ground that the domestic procedural rules are too complicated (see paragraph 31 of the judgment).

4. I cannot agree with that conclusion.

5. The reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII, and recently *Dambreville v. France* (dec.), no. 51866/99, 13 May 2003). Only delays attributable to the State may justify a finding of a failure to comply with the "reasonable time" requirement (see *H. v. France*, judgment of 24 October 1989, Series A no. 162-A, pp. 21-22, § 55).

6. As regards the complexity of the case, the Court was unwilling to accept the Government's argument that the case was rather complex (see paragraph 28 of the judgment). However, I consider that account should be taken of the fact that witnesses were examined, attempts to reach a friendly settlement were made and a number of additional applications were submitted by the parties. Moreover, at first instance the case was joined to another.

7. As regards the conduct of the relevant authorities, it can be seen that the courts dealing with the case were by no means inactive.

8. As regards the applicant's conduct, she made repeated requests for evidence to be taken from a witness who failed to appear. Then she asked for a different witness to be examined, for a cheque to be returned to her, for an expert report and for the convening of an arbitration board. During the proceedings she modified her position and declared that she was prepared to vacate the premises in exchange for compensation, and that prompted the *Commissario della legge* to adjourn the case in order to give the parties time to reach an agreement on this point. In addition, as the majority observed, the applicant did not oppose the joinder of the two sets of civil proceedings, which she could have done, thus reducing the length of the case (see paragraph 31 of the judgment).

9. All of these applications and incidents have to be taken into account in order to determine whether the length of the proceedings exceeded the

reasonable time required by Article 6 § 1 of the Convention (see *Eckle v. Germany*, judgment of 15 July 1982, Series A no. 51, p. 36, § 82).

10. As regards what was at stake in the dispute for the applicant, I note that she was able to remain in the building while the first-instance proceedings were in progress and that she had ceased to carry on her occupation there by the time she appealed.

11. The majority consider that the length of the proceedings was mainly due to the complexity of the domestic procedure and to the fact that in civil matters the judge is not empowered to take the initiative in the event of inaction by the parties (see paragraph 31 of the judgment). Even if that is true in the abstract, in the present case the complexity of the procedural rules did not hinder the applicant in the pursuit of her interests. On the contrary, her conduct throughout the proceedings leaves room for doubt as to whether she had a real interest in a speedy resolution of the dispute.

In conclusion, I consider that there has been no violation of Article 6 § 1 of the Convention.