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

FIRST SECTION

CASE OF ISTITUTO NAZIONALE CASE SRL v. ITALY

(Application no. 41479/98)

JUDGMENT
(Striking out)

STRASBOURG

6 November 2003

FINAL

06/02/2004

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Istituto Nazionale Case Srl v. Italy,

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

Mr P. LORENZEN, *President*,
Mr G. BONELLO,
Mr E. LEVITS,
Mr A. KOVLER,
Mr V. ZAGREBELSKY,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 16 October 2003,

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

PROCEDURE

1. The case originated in an application (no. 41479/98) 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 company, Istituto Nazionale Case Srl ("the applicant"), on 26 February 1998.

2. The applicant was represented by Mr E. Baldi, a lawyer practising in Naples. The Italian Government ("the Government") were represented by their successive Agents, respectively, Mr U. Leanza and Mr I.M. Braguglia, and by their successive co-agents, respectively Mr V. Esposito and Mr F. Crisafulli.

3. The applicant complained under Article 1 of Protocol No. 1 to the Convention that it had been unable to recover possession of its flat within a reasonable time. Invoking Article 6 § 1 of the Convention, the applicant further complained about the length of the eviction proceedings.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1).

7. By a decision of 7 May 2002 the Court declared the application admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicant is an Italian limited company, settled in Naples.

9. The applicant is the owner of a flat in Naples, which it had let to B.L.

On an unspecified date, the applicant informed the tenant that it intended to terminate the lease on expiry of the term on 31 December 1983 and asked him to vacate the premises by that date.

10. In a writ served on the tenant on 9 March 1984, the applicant reiterated its intention to terminate the lease and summoned the tenant to appear before the Naples Magistrate. The Magistrate declared that it was not competent to examine the matter, following which it was transferred to the Naples Tribunal.

11. By a decision of 8 July 1988, the Tribunal confirmed that the rent contract had expired on 31 December 1983. It ordered the tenant to vacate the premises by 28 June 1989.

12. On 4 February 1990, the applicant served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 19 February 1991

13. On 12 November 1990, the applicant once more required the tenant to vacate the premises.

14. Between 19 February 1991 and 9 October 1997, the bailiff made twenty-eight attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

15. On an unspecified date in September 1998, the applicant recovered possession of the flat.

THE LAW

16. By letter of 15 May 2002, the Court informed the applicant of the admissibility decision and requested it to submit, by 15 July 2002, any additional evidence or written observations on the case that it wished to put before the Court. In the same letter, the applicant was also asked to submit its claims for just satisfaction and to inform the Court of its position on a friendly settlement of the case. The applicant did not reply.

17. By letter of 25 July 2002, the Court requested the applicant to submit, by 22 August 2002, its observations on the proposal for a friendly settlement formulated by the Government. In the same letter, the applicant was again asked to submit its claims for just satisfaction. The applicant did not reply.

18. By registered letter of 25 July 2003, sent also by fax, the Court informed the applicant that the case was going to be examined in the near future and warned it that its failure to reply to the letters of 15 May and 25 July 2002, might lead to the application being struck out of the Court's list of cases. The applicant received the fax. On 1 August 2003, it received the registered letter. However, the applicant did not reply.

19. In these circumstances, having regard to Article 37 § 1 (a) of the Convention, the Court considers that the applicant does not intend to pursue the petition. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application.

20. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 6 November 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN	Peer LORENZEN
Deputy Registrar	President