



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

FIRST SECTION

CASE OF COVIELLO v. ITALY

(Application no. 39179/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

11 December 2003

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

In the case of Coviello v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mr G. BONELLO,

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 20 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 39179/98) 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, Mr Nicola Coviello (“the applicant”), on 16 October 1997.

2. 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 that he had been unable to recover possession of his flat within a reasonable time. Invoking Article 6 § 1 of the Convention, he further complained about the length 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 9 July 2002, having obtained the parties' observations, the Court declared the application admissible.

6. On 23 October 2003 and on 29 October 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. The applicant was born in 1948 and lives in Leverkusen (Germany).

8. He is the owner of a flat in Turin, which he had let to V.P.

9. On 2 December 1992, the applicant served a writ on the tenant that he intended to terminate the lease on expiry of the term on 31 July 1993 and asked him to vacate the premises by that date and summoned the tenant to appear before the Turin Magistrate.

10. By a decision of 16 December 1992, the Turin Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 July 1994.

11. On 7 July 1994, the applicant served notice on the tenant requiring him to vacate the premises.

12. On 17 December 1994 he informed the tenant that the order for possession would be enforced by a bailiff on 10 January 1995.

13. Between 10 January 1995 and 13 November 1998, the bailiff made eight attempts to recover possession.

14. On 12 May 1998, the applicant made a statutory declaration that he urgently required the premises as accommodation for his son.

15. On 20 July 1999, the tenant requested the Turin Magistrate (according to art. 6 L.431/98) to set a fresh date for the enforcement of the order.

16. On 13 January 2000, the Turin Magistrate decided to defer the date of eviction until the 14 February 2000.

17. On 14 February 2000, the applicant recovered possession of the flat.

THE LAW

18. On 29 October 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 3,000 (three thousand) euros to Mr Nicola Coviello with a view to securing a friendly settlement of the application registered under no. 39179/98. 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”

19. On 23 October 2003 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 3,000 (three thousand) euros covering both pecuniary and non-pecuniary damage and costs to Mr Nicola Coviello with a view to securing a friendly settlement of application no. 39179/98 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 applicant has 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.”

20. 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 question of the performance of those obligations 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).

21. 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 11 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President