



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

FIRST SECTION

CASES OF LUCILLA PETRINI v. ITALY

(Applications nos. 66292/01 and 66299/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

22 April 2004

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

In the cases of Lucilla Petrini 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, *Registrar*,

Having deliberated in private on 25 March 2004,

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

PROCEDURE

1. The case originated in two applications (nos. 66292/01 and 66299/01) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mrs Lucilla Petrini (“the applicant”), on 7 February 2001.

2. The applicant was represented by Mrs L. Grenga, a lawyer practising in Rome. 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 she had been unable to recover possession of her flat within a reasonable time. Invoking Article 6 § 1 of the Convention, she further complained about the length of the eviction proceedings.

4. On 10 October 2002, after obtaining the parties’ observations, the Court declared the applications admissible.

5. On 10 February 2004 and on 19 February 2004 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the cases.

THE FACTS

6. The applicant was born in 1929 and lives in Rome.

7. She is the owner of two flats in Rome, which she had let respectively to A.O. and D.D.S.

1) Application no. 66292/01

8. In a registered letter of 15 July 1992, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 31 January 1993 and asked her to vacate the premises by that date.

9. The tenant told the applicant that she would not leave the premises.

10. In a writ served on the tenant on 23 June 1993, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Rome Magistrate.

11. By a decision of 24 March 1994, 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 31 July 1995.

12. On 14 September 1995, the applicant served notice on the tenant requiring her to vacate the premises.

13. On 3 October 1995, she informed the tenant that the order for possession would be enforced by a bailiff on 27 October 1995.

14. Between 27 October 1995 and 6 July 2001, the bailiff made seventeen attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

15. The applicant has not recovered possession of the flat.

2) Application no. 66299/01

16. In a writ served on the tenant on 5 May 1989, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 30 November 1989 and asked him to vacate the premises by that date. She also summoned the tenant to appear before the Rome Magistrate.

17. By a decision of 25 November 1989, 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 30 November 1990.

18. On 22 November 1991, the applicant served notice on the tenant requiring him to vacate the premises.

19. On 17 December 1991, she informed the tenant that the order for possession would be enforced by a bailiff on 13 February 1992.

20. Between 13 February 1992 and 31 July 2001, the bailiff made thirty-three attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

21. The applicant has not recovered possession of the flat.

THE LAW

22. On 19 February 2004, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 10,000.00 euros (ten thousand euros) to Mrs Lucilla Petrini with a view to securing a friendly settlement of the applications registered under no. 66292/01 and 66299/01. 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 cases. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This declaration does not entail any acknowledgement by the Government of a violation of the European Convention on Human Rights in the present cases.

The Government further undertake not to request the referral of the cases to the Grand Chamber under Article 43 § 1 of the Convention.”

23. On 10 February 2004, 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 10,000.00 euros (ten thousand euros) covering both pecuniary and non-pecuniary damage and costs to Mrs Lucilla Petrini with a view to securing a friendly settlement of the applications no. 66292/01 and 66299/01 pending before the Court.

I accept the proposal and waive any further claims in respect of Italy relating to the facts of these applications. I declare that the cases are 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 cases to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

24. 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 applications 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).

25. Accordingly, the cases should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the cases out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the cases before the Grand Chamber.

Done in English, and notified in writing on 22 April 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President