



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

FIRST SECTION

CASE OF STENO MONTI v. ITALY

(Application no. 63833/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

27 May 2004

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

In the case of Steno Monti 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,

Mrs F. TULKENS,

Mr A. KOVLER,

Mr V. ZAGREBELSKY,

Mrs E. STEINER, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 6 May 2004,

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

PROCEDURE

1. The case originated in an application (no. 63833/00) 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, Mr Steno Monti, on 9 October 2000.

2. The applicant was represented by Mr A. Boncompagni, a lawyer practising in Sansepolcro (Arezzo). 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 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. On 10 October 2002, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 6 April 2004, both the applicant and the Government submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1922 and lives in Sansepolcro (Arezzo).

7. He is the owner of a flat in Florence, which he had let to L.B.

8. In a registered letter of 20 January 1992, the applicant informed the tenant that he intended to terminate the lease on expiry of the term on 31 December 1993 and asked her to vacate the premises by that date.

9. In a writ served on the tenant on 20 April 1993, the applicant reiterated his intention to terminate the lease and summoned the tenant to appear before the Florence Magistrate.

10. By a decision of 12 July 1993, which was made enforceable on 4 August 1993, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1993.

11. On 10 March 1995, the applicant served notice on the tenant requiring her to vacate the premises.

12. On 27 March 1995, he informed the tenant that the order for possession would be enforced by a bailiff on 30 May 1995.

13. Between 30 May 1995 and 7 May 1996, the bailiff made three attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

14. On 2 April 1997, the applicant served a second notice on the tenant requiring her to vacate the premises.

15. On 23 April 1997, the applicant made a statutory declaration that he urgently required the premises as accommodation for his children.

16. On 8 May 1997, he informed the tenant that the order for possession would be enforced by a bailiff on 23 June 1997.

17. Between 23 June 1997 and 3 September 1998, the bailiff made four attempts to recover possession. Each attempt proved unsuccessful, as the applicant was never granted the assistance of the police in enforcing the order for possession.

18. Pursuant to section 6 of Law no. 431/98, on 31 August 1999, the tenant asked for a suspension of the eviction proceedings.

19. On 15 December 2000, the Florence Magistrate decided to postpone the eviction proceedings until 11 July 2002.

20. On 11 July 2002, the applicant recovered possession of the flat with the assistance of the police.

THE LAW

21. On 6 April 2004, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 14,853.50 euros (fourteen thousand eight hundred fifty three euros and fifty cents) to Mr Steno Monti with a view to securing a friendly settlement of the application registered under no. 63833/00. 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. In the event of failure to pay this sum within the said three-months 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 case.

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

22. On the same day, the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 14,853.50 euros (fourteen thousand eight hundred fifty three euros and fifty cents) covering both pecuniary and non-pecuniary damage and costs to Mr Steno Monti with a view to securing a friendly settlement of the application no. 63833/00 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.”

23. 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).

24. 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 27 May 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President