CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 41427/98
by Caterina DEL BEATO
against Italy

The European Court of Human Rights (Second Section), sitting on 13 September 2001 as a Chamber composed of

Mr C.L. ROZAKIS, *President*,
Mr A.B. BAKA,
Mr L. FERRARI BRAVO,
Mr G. BONELLO,
Mrs M. TSATSA-NIKOLOVSKA,
Mr E. LEVITS,
Mr A. KOVLER, *judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having regard to the above application introduced with the European Commission of Human Rights on 8 July 1997 and registered on 2 June 1998,

Having regard to Article 5 § 2 of Protocol No. 11 to the Convention, by which the competence to examine the application was transferred to the Court,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant is an Italian national, born in 1953 and living in Naples. She is represented before the Court by Mr F. Imparato, a lawyer practising in Naples.

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

The applicant is the owner of an apartment in Naples, which she had let to L.P.

In a writ of 31 January 1984 , the applicant informed the tenant that she intended to terminate the lease on expiry of the term and asked him to vacate the premises by that date.

On 31 April 1984, she served a notice to quit on the tenant, but he refused to leave.

In a writ served on the tenant on 30 May 1984, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Naples Magistrate.

By a decision of 5 March 1986, which was made enforceable on 7 March 1990, the Naples Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 5 September 1987.

On 4 May 1990, she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 27 July 1990.

On 6 May 1991, the applicant made a statutory declaration that she urgently required the premises as accommodation for herself.

Between 27 July 1990 and 6 December 1994, the bailiff made 13 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.

On 4 January 1995, the Naples magistrate served notice to quit on the tenant, informing him that the order for possession would be enforced by a bailiff on 21 March 1995.

On 28 January 1997, the applicant recovered possession of the apartment.

THE LAW

The applicant complains under Article 6 of the Convention that the duration of the eviction proceedings resulted in a denial of her right of access to a court.

The Government argue that the arrangements for staggering the police assistance were an administrative issue, entirely separate from and

independent of the judicial process and therefore outside the scope of Article 6.

The Court recalls that it has already held that Article 6 of the Convention is applicable to the tenants eviction proceedings (see the judgment *Immobiliare Saffi v. Italy* [GC], no. 22774/93, §§ 62-63, ECHR 1999-V). The Court sees no reason to depart from its previous finding. This objection should therefore be rejected.

As to the length of the enforcement proceedings, the Government maintain that the delay in providing the assistance of the police is justified by the protection of the public interest.

The Court considers that the application raises complex and serious issues which require a determination on the merits. It follows that it cannot be considered manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring the application inadmissible has been established.

For these reasons, the Court unanimously

Declares the application admissible, without prejudging the merits of the case.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President