



DECISION TO STRIKE OUT

CASE No. CH/97/57

Ferid HALILOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in the First Panel on 15 October 1998 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING, Vice-President
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Hasan BALIĆ
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application Article VIII(1) of the Human Rights Agreement (the "Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(3)(a) and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The facts are based on the application and appended documents and can be summarised as set out below.

2. The applicant is currently in prison in Doboj, Republika Srpska. He was convicted of war crimes against the civilian population (under Article 191(2) of the Law on Criminal Procedure of the Republika Srpska) by the Court of First Instance in Modriča on 23 October 1997. He was sentenced to 15 years detention, which period is stated to run from the date of his arrest on 18 October 1996. The charges against the applicant related to his actions while a member of the Hrvatska Vijeće Obrane ("HVO"), working at a detention centre in Odžak in 1992.

II. COMPLAINTS

3. The applicant alleged a violation of his rights as guaranteed by Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), which guarantees the right to a fair hearing in criminal matters and certain other rights relating to criminal proceedings. He also claimed that his right to liberty of movement and residence, as guaranteed by Article 2 of Protocol No. 4 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The applicant's son lodged an application with the Chamber on 1 August 1997. The Chamber considered the application on 4 September 1997. It decided to notify the Republika Srpska of it and to invite it to submit written observations on the admissibility and merits, in accordance with Rule 49(3)(b) of the Chamber's Rules of Procedure. A time-limit expiring on 21 October 1997 was set for the receipt of these observations. The respondent Party's observations, dated 29 October 1997, were received by the Registry on 4 November 1997.

5. The respondent Party's observations were sent to the applicant's son, who was also his representative, on 12 November 1997. He was asked to submit his observations by 3 December 1997. A reminder letter was written on 19 May 1998, informing him that no observations had been received and warning him that the Chamber would consider what action to take if no reply was received by a specified date. No reply was received to this letter.

6. The Registry wrote to the applicant directly on 17 June 1998, asking him if he wished to continue with his application before the Chamber. A copy of this letter was also sent by facsimile to the agent of the Republika Srpska at that time, Mr. Stevan Savić. Mr. Savić undertook to deliver the letter to the applicant. No reply to this letter was received from the applicant.

7. The Panel considered the case again at its session in July 1998. It decided to write to the Director of Doboj prison asking him to countersign a receipt, stating that he had given a letter to the applicant. This letter, sent on 4 August 1998, reminded the applicant that the Chamber had not received any reply to any of the letters previously sent to him and his son, and setting a time-limit of 5 weeks for the receipt of any reply (which expired on 8 September 1998).

8. A duly countersigned letter was received by the Registry on 26 August 1998. This had also been signed by the applicant. A further copy of this letter, signed by the Director of the prison and the applicant was received at the Registry on 4 September 1998, having been signed on 6 August 1998.

9. No reply to the letter to the applicant has been received to date. The Panel considered the application on 15 October 1998 and adopted the present decision.

IV. OPINION OF THE CHAMBER

10. Article VIII (3)(a) of the Agreement states, in relevant part, as follows:

"The Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that the applicant does not intend to pursue his application ... provided that such result is consistent with the objective of respect for human rights."

11. The Chamber has not received any reply to any of the letters it has written to the applicant and his son. The applicant's written statement in response to the written response of the respondent Party was due to be received by the Registry on 3 December 1997. The Registry of the Chamber has written to both the applicant and his son on a number of occasions, reminding them of this time-limit. The Registry has also taken steps to ensure that these letters were actually received by the applicant.

12. Accordingly, it appears clear that the applicant no longer wishes to pursue his application before the Chamber and that the application should therefore be struck out of its list of cases.

V. CONCLUSION

13. For the above reasons the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber