



DECISION TO STRIKE OUT

CASE No. CH/98/1199

Dragan TOMIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 March 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÉLLER
Mr. Mehmed DEKOVIĆ

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

Having considered the aforementioned application introduced pursuant to 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) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application concerns the attempted eviction of the applicant from an apartment at Đure Pucara, Pećani G-3, Prijedor, by the Ministry for Refugees and Displaced Persons of the Republika Srpska ("the Ministry").

2. On 4 November 1992, the applicant was granted an occupancy right over the apartment by "Mira" company, the holder of the right to allocate the apartment. The allocation was stated to be valid until the final allocation by the company of the apartments which it was entitled to allocate. According to the information provided to the Chamber, this has not happened to date.

II. COMPLAINTS

3. The applicant complained that his rights as protected by Articles 6 and 8 of the European Convention on Human Rights ("the Convention") have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 1 October 1998 and registered on the same day.

5. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction. On 1 October 1998, the President of the Second Panel ordered, pursuant to Rule 36(2), the respondent Party to take all necessary action to prevent the applicant's eviction.

6. On 28 October 1998 the Second Panel decided, pursuant to Rule 49(3)(b) of the Rules of Procedure to transmit the application to the respondent Party for observations on the admissibility and merits of the complaint relating to the alleged violation of the applicant's right to respect for his home as guaranteed by Article 8 of the Convention and of the applicant's right to peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention.

7. The respondent Party did not submit any observations in the case.

8. In November 1998, the Chamber received information from the Organisation for Security and Cooperation in Europe ("OSCE") relating to the application. This information was to the effect that the applicant had forcibly evicted the previous occupancy right holder of the apartment from it in 1992.

9. The Second Panel considered this information on 18 December 1998. It decided to withdraw the provisional measure issued by the President of the Panel in the case.

10. On 23 December 1998, the applicant and the respondent Party were informed of this decision and of the reasons upon which it was based. The applicant was requested to inform the Chamber within two weeks (i.e. by 6 January 1999) of whether he wished to proceed with his application. No reply was received within this time-limit. A copy of this letter was sent to the applicant again on 25 January 1999, together with a covering letter. This covering letter informed the applicant that if no reply was received by 8 February 1999, the Chamber could decide that he no longer wished to proceed with the application and decide to strike it out under Article VIII(3) of the Agreement. The Registry has received a certificate of delivery of this letter, signed by the applicant's wife and dated 28 January 1999.

11. No reply has been received by the Chamber to the above letter.

IV. OPINION OF THE CHAMBER

12. According to Article VIII(3) of the Agreement, the Chamber may at any point decide to strike out an application on the ground that (a) the applicant does not intend to pursue his application; (b) the matter has been resolved; or (c) for any other reason established by the Chamber, it is no longer

justified to continue the examination of the case. In all these situations, however, a decision to strike out an application must be consistent with the objective of respect for human rights.

13. In the present case the Chamber notes that the applicant has not replied to either of the letters sent to him by the Chamber. The Chamber has received a confirmation that the applicant's wife received the letter from the Chamber dated 25 January 1999. The Chamber also notes that the covering letter of 25 January 1999 specifically informed the applicant that if he did not reply to it, the Chamber could decide to strike out his case from its list.

14. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. In these circumstances it is no longer justified to continue the examination of the case and such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

15. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel