



DECISION TO STRIKE OUT

CASE No. CH/98/927

M.B and Ž.K.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 14 April 1999 with the following members present:

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

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 applicant M.B. is the owner of a house in 7 Vlašića Street in Gradiška, Republika Srpska ("the house"). He is of Bosniak origin. On 5 March 1998 he and the second applicant, Ž.K., entered into a lease contract which was validated by the Municipality of Gradiška on the same day. On 5 March 1998 the Ministry for Refugees and Displaced Persons (the "Ministry") issued a receipt confirming that the house of M.B. had not been declared abandoned and that the Ministry had no right to deal with it.

2. On 31 August 1998 the Commission for the Resettlement of Refugees and the Administration of Abandoned Property in Gradiška ("the Commission") ordered Ž.K. to vacate the house. On the same day it issued a conclusion authorising his eviction and scheduling it for 8 September 1998. The scheduled eviction was attempted, but was postponed as the eviction order had not been properly delivered to him. It was supposed to be carried out after the proper delivery was done. The applicants' representative has not informed the Chamber of whether the eviction has been carried out.

3. On 2 September 1998 the applicants appealed to the Ministry against the decision of 31 August 1998. The lodging of such an appeal does not suspend the execution.

II. COMPLAINT

4. The applicants complained that their property rights have been violated by the acts of the Commission and the Ministry. They requested the Chamber to make an order for provisional measures prohibiting the eviction of Ž.K. from the house in question.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced to the Chamber on 8 September 1998 and was registered on the same day. The applicants were represented by Ms. Draginja Selak, a lawyer practising in Gradiška.

6. On 9 September 1998 the First Panel decided to grant the request for provisional measure and to transmit the case to the respondent Party for its observations. The case was transmitted on 17 September 1998. No observations have been received within the time limit set out in the Order for organisation of proceedings.

7. On 20 November the applicants' representative was invited to submit additional observations and any claim for compensation they wished to make. No reply was received by the Chamber within the time-limit set. On 25 January 1999 a registered letter was sent reminding the representative of the letter of 20 November 1998 and stating that if no reply was received to this second letter, the Chamber might decide that the applicants no longer wish to proceed with their application. The delivery receipt was signed by the applicants' representative on 28 January 1999. There has been no response to date.

IV. OPINION OF THE CHAMBER

8. 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.

9. In the present case the Chamber notes that the applicants' representative has not replied to the letter sent to her by the Chamber. The Chamber has received confirmation that she received the letter from the Chamber dated 25 January 1999. The Chamber also notes that this letter specifically informed her that if she did not reply to it, the Chamber might decide that the applicants do not wish to proceed with their application before it.

10. Accordingly, the Chamber concludes that the applicants do not intend to pursue their 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

11. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel