



DECISION TO STRIKE OUT

CASE No. CH/98/838

Mišo POPOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 June 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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 occupied an apartment located at Kalemegdanska 14 (“the apartment”), Banja Luka since 1995. On 22 April 1998, he was allocated the apartment by a decision of the Commission for the Accommodation of Refugees and Administration of Abandoned Property (“the Commission”) in Banja Luka. Prior to that date, he had occupied the apartment without any legal basis. On 23 June 1998, he received a decision of the Banja Luka Municipal Secretariat for Planning and Housing-Communal Affairs (“the Secretariat”). This decision was issued on 5 June 1998 and ordered him to vacate the apartment within three days under threat of forcible eviction. The applicant appealed against this decision. On 23 October 1998, the Secretariat issued a Conclusion, authorising the forcible eviction of the applicant.

II. COMPLAINTS

2. The applicant claimed that his rights as protected by Articles 6 and 8 of, and Article 1 of Protocol No. 1 to, the European Convention for Protection of Human Rights and Fundamental Freedoms had been violated by the attempts to evict him.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 31 July 1998 and registered on the same day. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction from the apartment.

4. On 5 August 1998, the President of the Chamber refused the request for a provisional measure. The applicant was informed of this decision by the Registry in writing on the same day. On 2 November 1998, the applicant repeated his request for a provisional measure and provided certain additional documentation to the Chamber. On the same day, the Vice-President of the Chamber ordered the respondent Party as a provisional measure to take all necessary action to prevent the applicant’s eviction from the apartment. This order was stated to remain in force until the Chamber’s final decision in the case, unless it was withdrawn at an earlier stage. The order also organised the proceedings in the case. The respondent Party was given a time-limit of one month to submit its observations on the admissibility and merits of the application.

5. On 5 November 1998, the Chamber received two submissions in the case, from the Banja Luka Secretariat for Housing Affairs and the Clinical Centre in Banja Luka, the owner of the apartment in question. On 6 November 1998, the Chamber received another submission in the case, from Ms. Radmila Malešević, the person who had been allocated the apartment by the Clinical Centre. The Second Panel of the Chamber considered these submissions at its session on 15 November 1998. It decided to accept the submissions of the Clinical Centre and Ms. Malešević. It decided not to accept the submissions of the Banja Luka Secretariat for Housing Affairs, as any observations or submissions from authorities of the Republika Srpska must be endorsed and submitted on behalf of that entity by the Agent of the Republika Srpska before the Chamber.

6. On 15 November 1998, after considering the submissions of the Clinical Centre and Ms. Malešević, the Second Panel of the Chamber decided to withdraw, with immediate effect, the order for provisional measures made by the Vice-President of the Chamber. This decision was based on two reasons: the apartment in question had been validly allocated to Ms. Malešević, and the decision of the Commission of 22 April 1998 allocating the apartment to the applicant had been revoked by the appropriate second instance body by a decision of 21 September 1998. The applicant accordingly occupied the apartment without any legal basis.

7. On 20 November 1998, the parties were informed of the above-mentioned decision of the Second Panel of the Chamber in writing. The applicant was asked to inform the Chamber within two weeks of the date of the letter of whether or not he wished to proceed with his application before the Chamber. No reply was received from the applicant to this letter. On 25 January 1999, the Registry wrote to the applicant again by registered post reminding him of the letter of 20 November 1998 and informing him that if no reply was received to this second letter within three weeks, the Chamber

might conclude that he no longer wished to proceed with his application and decide to strike it from its list in accordance with Article VIII(3)(a) or (c) of the Agreement. The letter was returned by the Post Office to the Chamber, with an indication to the effect that it could not be delivered to the applicant.

8. The applicant has not contacted the Chamber since 2 November 1998. The Chamber has not been informed of whether or not the applicant has been evicted from the apartment.

IV. OPINION OF THE CHAMBER

9. 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.

10. In the present case the Chamber notes that the applicant has not replied to the letter of the Registry of 20 November 1998 referred to at paragraph 7 above. Even though the Chamber is aware that he did not receive the second letter sent to him, and possibly not the first either, it would have been incumbent on him at any rate to keep the Chamber informed of any developments in his case as well as of any changes of address. Since 2 November 1998 the applicant has not been in contact with the Chamber.

11. 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

12. 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