



DECISION TO STRIKE OUT

Case no. CH/98/955

I. D.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 October 1999 with the following members present:

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

Mr. Anders MÅNSSON, 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 Articles VIII(2) and XI of the Agreement and Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is the registered owner of a house located at Jovana Bjelića (formerly Ivana Mažuranića) 15, Gradiška, Republika Srpska. In late 1993 he and his family were forced to leave Gradiška as a result of the war. On 11 October 1993 he entered into a contract with Mr. D.B., a friend of his. The contract stated that it was valid until the return of the applicant from exile. No monthly rent was payable. Mr. D.B. was required to keep the house in good condition and to return it undamaged to the applicant upon his return.
2. On 25 August 1998 the applicant returned to Gradiška. He regained possession of his house. Mr. D.B. remained in the house with the permission of the applicant. Mr. D.B., a war invalid, requested that the Commission for the Accommodation of Refugees and the Administration of Abandoned Property in Gradiška ("the Commission") provide him with alternative accommodation.
3. On 14 September 1998 a displaced person from Srbobran/Donji Vakuf came to the applicant's house and informed him that the Commission had declared the house to be abandoned and allocated it to her for the use of her and her family. She informed the applicant that he was to be evicted in the following couple of days. On 15 September 1998 the applicant visited the offices of the Commission. There he was informed by the head of the Commission that a decision ordering his eviction would be issued in the following couple of days and that he would have to return to Germany, while alternative arrangements would be made for Mr. D.B.
4. The applicant has not received any decision of the Commission authorising his eviction. He still occupies the house and there have been no further attempts to evict him from it.

II. COMPLAINTS

5. The applicant does not make any specific complaints of any violations of his human rights as protected by the Agreement. He complains that Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina has been violated, as well as his right to occupy his home.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced to the Chamber on 15 September 1998. It was registered the following day.
7. The applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary steps to prevent him from being evicted from the house. On 17 September 1998 the President of the Chamber ordered, pursuant to Rule 36(2) of the Rules of Procedure, the respondent Party to refrain from evicting the applicant from the house. The order stated that it would remain in force until the Chamber had given its final decision in the case, unless it was withdrawn by the Chamber before then.
8. On 28 September 1998, pursuant to Rule 49(3)(b) of the Rules of Procedure, the application was transmitted to the respondent Party for observations on its admissibility and merits. However, no observations were received from the respondent Party within the time-limit set.
9. On 18 January 1999 the applicant was requested to submit a written statement and any claim for compensation or other relief which he wished to make. His statement, which contained a claim for compensation, was dated 8 February 1999. It was transmitted to the respondent Party but no observations were received within the specified time-limit.
10. The First Panel considered the application on 7 July 1999 and decided to request further information from the applicant.
11. On 20 July 1999 the observations of the respondent Party were received. The Chamber

decided to accept these observations despite the fact that they were received outside the time-limit set for their receipt. They were transmitted to the applicant for his further observations.

12. On 21 September 1999 the Chamber received a letter from the applicant in which he stated that he had not received any decision relating to his eviction, that there had been no further attempts to evict him from the house and that he still occupied it. He also stated that he did not wish to withdraw his application from the Chamber.

IV. SUBMISSIONS OF THE PARTIES

13. The respondent Party states that the applicant has not produced any documentary evidence that he was to be evicted or that his house had been declared abandoned. It points out that the applicant had allowed a friend to occupy and take care of the house from October 1993 and that the applicant occupies it himself since his return to Gradiška in 1998. In conclusion the respondent Party states that the applicant's claim for compensation should be rejected and that the application should not be accepted by the Chamber.

14. The applicant maintains his application.

V. OPINION OF THE CHAMBER

15. 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.

16. In the present case the Chamber notes that the applicant's complaint essentially relates to his possible eviction from the house. The Chamber notes that no decision has been issued by the Commission ordering the applicant's eviction and that there have been no attempts to disturb the applicant in his possession of his house since September 1998. The Chamber considers therefore that there is no continuing threat to the applicant that he will be evicted from his house.

17. In these circumstances, the Chamber concludes that it is no longer justified to continue the examination of the case. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

VI. CONCLUSION

18. For the above reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel