



DECISION TO STRIKE OUT

Case no. CH/98/1236

Mensur DŽINIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 December 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. 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 Article VIII(3) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina of Bosniak origin. He is the part owner of a property in Banja Luka, on which a house and business premises are situated. In 1995 he was evicted from the property, where he had previously resided. The property was subsequently occupied by refugees of Serb origin from Sanski Most, in accordance with decisions of the Ministry for Refugees and Displaced Persons.

2. The applicant initiated administrative and court proceedings to regain possession of the property. On 11 February 1999 the Court of First Instance in Banja Luka refused to accept jurisdiction in the matter, on the basis that it is incompetent to deal with matters concerning abandoned property. On 25 March 1999 the applicant appealed to the Regional Court against this decision. According to the information available to the Chamber, there has been no decision on this appeal to date.

3. On 17 December 1998 the Commission for Real Property Claims of Displaced Persons and Refugees issued a certificate confirming the applicant's partial ownership of the property and ordering that he be allowed to regain possession of it.

4. On 8 February 1999 the applicant applied to the Ministry to regain possession of the property. On 19 April 1999 the Ministry decided that he be allowed to regain possession of it within ninety days. On 12 July 1999 the applicant requested execution of the decision. On 2 September 1999 the Ministry issued a conclusion scheduling the execution of the decision for 11 September 1999. The decision was not executed on this date. The execution was then scheduled for 20 September 1999, upon which date it was successful and the applicant regained possession of the property.

II. COMPLAINTS

5. The applicant complained of his inability to regain possession of the property.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 19 October 1998 and registered on the following day. The applicant is represented by Mr. Zoran Butorac, a lawyer practising in Banja Luka.

7. On 19 November 1999, the applicant informed the Chamber that he had regained possession of the property on 20 September 1999.

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. The Chamber notes that the applicant has successfully regained possession of the property. In his application to the Chamber he complained solely of the fact that he was unable to do so.

10. Accordingly, the Chamber concludes that the matter has been resolved. In these circumstances 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.

V. CONCLUSION

11. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel