



DECISION TO STRIKE OUT

Case no. CH/99/1940

Đurađ VASILJEVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 March 2000 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, a citizen of Bosnia and Herzegovina, occupied part of a house located at Branke Morače 7, Banja Luka. He moved into it after being displaced from Sanski Most. He did not state when he moved into it nor on what legal basis, if any, he did so. The successor of the owner of the part of the house which the applicant occupied initiated proceedings to be declared the legal owner of that part of the house and to gain possession of it. On 17 October 1996 the Court of First Instance in Banja Luka issued a decision in these terms and ordered the applicant to vacate the house. The applicant states that he was never informed of these proceedings and was not given any opportunity to participate in them. There have been a number of attempts to carry out the decision of the court by evicting the applicant. On 6 November 1998 the applicant lodged an objection with the court, against the enforcement of the decision of 17 October 1996. According to the information available to the Chamber, there has been no decision on this objection to date and subsequent attempts to evict the applicant have been scheduled by the court.

2. On 23 June 1998 the Ministry for Refugees and Displaced Persons in Banja Luka allocated the applicant the part of the house where he lives. The owner of the house appealed against this decision. According to the applicant this appeal was successful and the decision of 23 June 1998 was accordingly invalidated. He claims, however, that he has never received a copy of any decision invalidating the decision of 23 June 1998.

3. The applicant has not informed the Chamber of whether there have been any further developments in the matter nor of whether he still occupies part of the house. He has not contacted the Chamber since lodging his application.

II. COMPLAINTS

4. The applicant complains of violations of his rights as protected by Articles 6 and 13 of the European Convention on Human Rights.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 4 June 1999 and registered on the same day. The applicant requested the Chamber to order the respondent Party as a provisional measure to take all necessary action to prevent his eviction. On 11 June 1999 the Second Panel refused this request and decided to transmit the application to the respondent Party for observations on its admissibility and merits. No observations were received from the respondent Party. On 16 August 1999 the Chamber wrote to the applicant (at the address he indicated in his application) informing him of this fact and asking him to submit any further observations or claim for compensation or other relief he wished to make. No reply was received to this letter.

6. On 6 October 1999 the Registry wrote to the applicant by registered post (at the address he indicated in his application), asking him to reply to its letter of 16 August 1999 and enclosing a copy of that letter. He was informed that if he did not reply within three weeks, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out of its list. On 7 October 1999 the Chamber received a certificate of delivery of the letter of 6 October 1999, signed by a person with the same surname as the applicant.

IV. OPINION OF THE CHAMBER

7. 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.

8. The Chamber notes that the applicant has not replied to any of the letters it sent to him. It has received confirmation that a person residing at the same address as him and with the same surname received its letter of 6 October 1999. This letter specifically informed the applicant that if he did not reply to it the Chamber might decide that he no longer wished to proceed with his application. The applicant has not been in contact with the Chamber since June 1999, nine months ago.

9. 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. Moreover, such an outcome would not seem to be inconsistent with the objective of respect for human rights.

V. CONCLUSION

10. 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