



DECISION TO STRIKE OUT

Case no. CH/98/1268

Z. O.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 7 July 2000 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting 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 of Croat origin, occupied a house located at Augusta Šenoje no. 9 in Prijedor, Republika Srpska. He entered it in 1987 with the oral agreement of the owner. They lived in the house together until 1995, when the owner left for Sweden. The applicant remained in the house. The applicant never concluded any written agreement with the owner of the house entitling him to reside there.

2. In November 1997 the Commission for Accommodation of Refugees and Administration of Abandoned Property in Prijedor, a department of the Ministry for Refugees and Displaced Persons, declared the applicant to be an illegal occupant of the house and ordered him to vacate it. The applicant did not appeal against this decision, claiming that he was informed by an official of the Commission that he would not be evicted.

3. The applicant claims that no further steps were taken by the Commission until October 1998. He claims that on this date his wife was forced to sign a decision scheduling their eviction from the house on 3 November 1998, which was not carried out. A further eviction of the applicant was scheduled for 2 April 1999. The Chamber has not been informed of whether this eviction was carried out.

II. COMPLAINTS

4. The applicant claims that the actions of the Commission are discriminatory on the grounds of his Croat origin and Catholic religion.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 29 October 1998 and registered on the same day. The applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary steps to prevent his eviction from the house. On 2 November 1998 the Vice-President of the Panel issued an order in these terms. The observations of the respondent Party on the admissibility and merits of the application were due by 2 December 1998. They were not received by this date.

6. On 18 December 1998 the Chamber considered certain information it had received relating to a number of cases before it concerning property in the Prijedor area from the Prijedor Field Office of the Organisation for Security and Co-operation in Europe ("OSCE"). In respect of the present case, the OSCE stated that the applicant had recently inherited residential property from his mother, which he was renting out on a commercial basis. In addition, the OSCE stated that the owner of the house in which the applicant resided did not approve of his continued residence there.

7. On the basis of this information, the Chamber decided to withdraw the order for provisional measures in the case. The applicant and respondent Party were informed of this decision on 23 December 1998. The applicant was asked to inform the Chamber of whether he wished to proceed with his application in these circumstances. His reply was received on 10 February 1999, in which he contested the information received from the OSCE and expressed his wish to proceed with his application.

8. On 8 March 1999 the observations of the respondent Party were received, outside the time-limit set by the Chamber for the receipt of such observations. The Chamber decided to accept them despite this fact and on 19 March 1999 they were transmitted to the applicant for his further observations, which have not been received. The applicant was last in contact with the Chamber on 29 March 1999. He has not informed the Chamber of whether he still occupies the house.

9. On 14 October 1999 the Chamber wrote to the applicant at the address he gave in his application, asking him to inform it of whether there had been any developments in his case since

the date of his last contact with the Chamber. This letter was returned undelivered to the Chamber on 19 October 1999, with an indication from the post office that the applicant had moved away. On 27 October 1999 the Chamber wrote to the applicant again at the same address, by registered post, asking him to reply to its letter of 14 October 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. This letter was returned undelivered to the Chamber on 1 November 1999, with an indication from the post office that the applicant had moved away.

IV. OPINION OF THE CHAMBER

10. 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.

11. The Chamber notes that the applicant has not been in contact with it since March 1999. Although the Chamber has received confirmation that the applicant has not received either of the letters it sent to him in October 1999, it has in any event been incumbent on him to keep the Chamber informed of any developments in his case, including changes in address. He has failed to do so and contacts with him have therefore been lost.

12. 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

13. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel