



DECISION TO STRIKE OUT

Case no. CH/99/2450

Pašo PERIĆ

against

REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 September 2002 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. Ulrich GARMS, 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant complained of his inability to repossess his property, located at Branka Vidovića bb, in Gradiška.
2. On 3 July 1998 and 13 July 1999 the applicant filed requests to repossess his property to the Ministry for Refugees and Displaced Persons of the Republika Srpska ("Ministry"). On 19 July 1999 the Ministry issued a decision ordering the applicant reinstatement.
3. On 11 November 1999 the applicant requested the Ministry to implement its decision.
4. On 9 December 1999 the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") issued a decision confirming that the applicant was *bona fide* possessor of the property on 1 April 1992.
5. In the meantime, on 20 July 1998 the applicant filed a complaint before the Gradiška First Instance Court requesting reinstatement into possession of his property. On 21 November 1998 the First Instance Court issued a procedural decision rejecting the plaintiff's proposal and declaring itself not competent to decide the case.
6. On 23 August 2001 the applicant entered into possession of his pre-war property.

II. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 2 December 1999.
8. On 24 March 2000 the application was transmitted to Republika Srpska for its observations on the admissibility and merits under Articles 8, 13 and 14 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention. On 23 May 2000 the respondent Party submitted its observations.
9. On 4 September 2001, the respondent Party informed the Chamber that the applicant had been reinstated into his property on 23 August 2001.
10. On 15 October 2001 the applicant confirmed to the Chamber that he had been reinstated into his property and that he considers the matter resolved.

III. OPINION OF THE CHAMBER

11. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (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 application; provided that such a result is consistent with the objective of respect for human rights."
12. The Chamber notes that the applicant lodged his application with a view to regaining possession of his property, and while the case was still pending before the Chamber, he regained such possession.
13. It would be open to the Chamber to consider the admissibility and merits of a case, when, as in the present case, the question arises whether the time-limits and other procedural requirements prescribed by domestic law have been complied with by the authorities. If it found a violation, then the Chamber would address the question of whether any remedies should be ordered, including compensation.

14. However, as the Chamber explained in the case of *S.P.* (case no. CH/99/2336, decision to strike out of 2 July 2001, Decisions July–December 2001), the Chamber is not unmindful of the difficulties faced by the domestic authorities in implementing the property legislation in force in a timely manner. Consequently, where it appears that the domestic authorities, albeit belatedly, have taken effective action and where the applicants have in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application. Such a decision to strike out, however, will depend upon the circumstances of the particular case, including the stage the proceedings have reached when the Chamber is informed of the applicant's reinstatement. Nonetheless, the Chamber retains the option of proceeding to a decision on the merits of any particular case, provided the other facts of the case so warrant.

15. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of his property on 23 August 2001. That being so, the Chamber considers that the main issue raised in the application has been resolved. The Chamber further notes, that the applicant considers the matter resolved. In the circumstances, and considering that it would not be inconsistent with the object of respect for human rights, the Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3) of the Agreement.

IV. CONCLUSION

16. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar

(signed)
Giovanni GRASSO
President of the Second Panel