



DECISION TO STRIKE OUT

Case no. CH/00/5284

Hasan MUŠANOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 12 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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 Rule 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The case concerns the applicant's attempts to obtain approval for enforcement from the Ministry of Refugees and Displaced Persons (the "Ministry"), the Gradiška Department (Ministarstvo za izbjeglice i raseljena lica, Odsjek Gradiška) ("Ministarstvo") of a procedural decision of 19 July 1999, by which the applicant had regained possession of his pre-war property, *i.e.* land, a house, and additional facilities located in Gradiška, the Republika Srpska.

2. On 17 March 2000, the applicant requested the Ministry to approve enforcement of its procedural decision of 19 July 1999. As he received no answer, on 20 June 2000, the applicant requested the Administrative Inspector of the Republika Srpska to intervene. On 4 April 2001, the Ministry issued a conclusion that the applicant should be reinstated into possession of his property on 20 April 2001.

3. On 24 December 2001, the applicant was reinstated into possession of his property.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 20 June 2000 and registered on 5 July 2000.

5. In his application, the applicant complains that the authorities of the Republika Srpska failed to decide upon his requests for reinstatement. The applicant alleges that his rights under Articles 6, 8, 13 and 14 of the European Convention on Human Rights (the "Convention"), Article 1 of Protocol No. 1 to the Convention, and other laws in force have been violated. In addition, he alleges that Annexes 6 and 7 to the General Framework Agreement have not been applied properly. The applicant submitted a compensation claim for pecuniary and non-pecuniary damages in the amount of 6,000 KM.

6. On 1 July 2002, the applicant submitted a letter to the Chamber informing it that he had been reinstated into possession of his property on 24 December 2001, but that his house has been damaged. Accordingly, the applicant asks the Chamber to award him compensation.

III. OPINION OF THE CHAMBER

7. 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."

8. 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.

9. 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.

10. 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 is established that the domestic authorities have taken effective action and where the applicant has in fact been reinstated, although not within the time-limit

established by law, the Chamber may be persuaded to strike out an application, unless there are particular reasons, apart from the delays in the reinstatement, that require continued consideration.

11. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of his property on 24 December 2001. That being so, the Chamber considers that the main issue raised in the application has been resolved. The Chamber further notes, however, that the applicant has expressed his intention to pursue the application before the Chamber in regard to his claim for compensation. The Chamber observes that it can only award compensation if it makes a finding of a violation of the Agreement. Apart from the delays that occurred in securing his reinstatement, the applicant has not drawn the Chamber's attention to any special circumstances regarding the respect for human rights which would require the examination of the application to be continued after the main issue raised in the application has been resolved, and the Chamber considers that no such special circumstances are present in this application. In the circumstances, the Chamber finds that it would not be inconsistent with the objective of respect for human rights to strike out the application. Consequently, the claim for compensation cannot be considered.

12. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3) of the Agreement.

IV. CONCLUSION

13. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

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