



DECISION TO STRIKE OUT

Case no. CH/00/6298

Drago TEŠIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 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)(a) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant concluded an exchange agreement with R.Š., the pre-war occupancy right holder of an apartment located at Nikole Pašića Street in Banja Luka.
2. On 12 April 2000, the Ministry for Refugees and Displaced Persons, Banja Luka Department, (the "Ministry") issued a procedural decision recognising R.Š. as the pre-war occupancy right holder over the apartment in question and terminating the applicant's right to use it.
3. On 17 August 2000, the Ministry issued a procedural decision recognising the applicant as the pre-war holder of occupancy right over another apartment located at Banović Strahinje Street in Banja Luka and terminating R.Š.'s right to use that apartment.
4. By the Ministry's conclusion of 30 November 2000, R.Š.'s eviction from the apartment on Banović Strahinje Street was scheduled for 21 December 2000. It appears that the applicant's eviction was scheduled for the same date (*i.e.* on 21 December 2000). The Chamber has no further information on whether the mentioned evictions were carried out.

II. COMPLAINTS

5. The applicant alleges violations of Articles 24(a) and 25 of the Law on Amendment to the Law on Cessation of Application of the Law on Abandoned Property and Article 279 of the Law on Administrative Proceedings, as well as violations of his rights as protected by Article 8 of the European Convention on Human Rights.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 15 December 2000 and registered on the same day.
7. 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 apartment on Nikole Pašića Street. On 19 December 2000, the President of the Second Panel refused the provisional measure requested.
8. On the 19 December 2000 the Chamber asked the applicant if he wanted to proceed with his application under these circumstances, and if so, to provide certain additional information. He was also informed that if he did not reply within one month, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out. No reply was received to this letter.
9. On 6 March 2001 the Chamber sent a reminder letter to the applicant, by registered mail, enclosing a copy of the letter of 19 December 2000 and asking for his reply. The applicant was again informed that the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out, if no answer was received within one month. On 18 March 2001 the reminder letter was returned to the Chamber. According to the note from the Post Office, direct delivery of the reminder letter to the applicant's address was not possible and the applicant failed to collect the letter from the Post Office within the designated period.

IV. OPINION OF THE CHAMBER

10. In accordance with Article VIII(3)(a) 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 (a) the applicant does not intend to pursue his application; ... provided that such a result is consistent with the objective of respect for human rights."

11. The Chamber notes that the applicant has not replied to the letters it sent to him. The Chamber further notes that these letters specifically informed the applicant that, if he did not reply, the Chamber would assume that he did not wish to proceed with his application. The Chamber finds that the applicant does not intend to pursue the application. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the application.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel