



DECISION TO STRIKE OUT

Case no. CH/98/1155

Kadir SIJERKIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 February 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 case concerns the applicant's attempt to regain possession of his property. The applicant, who is of Bosniak origin and a citizen of Bosnia and Herzegovina, is the pre-war owner of property situated in Orahova, Municipality Gradiška, the Republika Srpska.
2. On 12 August 1998, the applicant lodged a request for repossession of his pre-war property before the Ministry for Refugees and Displaced Persons in Gradiška.

II. COMPLAINTS

3. The applicant alleges violations of his rights as protected by Articles 8, 13 and 14 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention, as well as violations of Annexes 6 and 7 to the General Framework Agreement.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was received and registered by the Chamber on 14 September 1998.
5. On 18 February 1999, the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, and discrimination in connection with Article II(2)(b) of the Agreement.
6. The respondent Party submitted its observations on 19 March 1999. The applicant submitted his observations in reply on 16 April 1999.
7. On 13 September 2002, the Chamber wrote to the applicant asking whether he had repossessed his pre-war property, and if so, whether he considers his case before the Chamber resolved. The Chamber received no reply. On 12 November 2002, the Chamber sent another letter to the applicant, by registered mail, asking him to reply to its letter of 13 September 2002 and enclosing a copy of that letter. This letter also cautioned the applicant that if he did not reply to it, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out. On 18 November 2002, the Chamber received the signed certificate of delivery of its letter of 12 November 2002, but it received no reply from the applicant. The Chamber sent a reminder letter to the applicant on 16 December 2002. On 23 December 2000, the Chamber received the certificate of delivery of its letter of 16 December 2002, signed by the person residing at the address given by the applicant in his application, but it received no reply to this letter either.

IV. OPINION OF THE CHAMBER

8. 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 (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."
9. The Chamber notes that the applicant has not replied to the letters it sent to him. The Chamber further notes that these letters specifically cautioned the applicant that if he did not reply, the Chamber might 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

10. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel