



DECISION TO STRIKE OUT

Case no. CH/00/3672

BRANKO SMILJANIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 October 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Peter KEMPEES, 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 Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant lives in a house in Ulica Jevrejska 83 in Banja Luka in accordance with a decision of the Ministry for Refugees and Displaced Persons (the "Ministry") in Banja Luka of 5 December 1997.
2. On 25 December 1999 the Ministry decided that the owner of the house was allowed to regain possession of it. This decision also terminated the right of the applicant to occupy the house. The decision stated that the applicant was in possession of his pre-war property in Bihać. The applicant appealed against this decision and his appeal is still pending.
3. On 25 February 2000 the Ministry in Banja Luka issued a conclusion scheduling the eviction of the applicant for 9 March 2000. The applicant has appealed against this decision and his appeal is still pending.

II. COMPLAINTS

4. The applicant complains about a violation of Articles 6, 8 and 13 of the European Convention and of Article 1 of Protocol 1 to the European Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 6 March 2000 and registered on the same day. The applicant requested the Chamber to order the respondent Party as a provisional measure to take all necessary action to prevent his eviction. On 7 March 2000 the Chamber refused this request. On the following day the Registry informed the applicant of this in writing and asked him to inform it of whether he wished to proceed with his application. No reply was received to this letter.
6. On 30 May 2000 the Registry received written observations on admissibility and merits from the respondent Party. On 13 June 2000 the Registry informed the applicant of this in writing and asked him to reply to the observations. No reply was received to this letter.
7. On 27 July 2000 the Registry wrote to the applicant by registered post, asking him to reply to its letter of 13 June 2000. He was informed that if he did not reply to this letter 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. No reply was received to this letter.

IV. OPINION OF THE CHAMBER

8. 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.
9. The Chamber notes that the applicant has not been in contact with the Chamber since 6 March 2000, the date of lodging his application. Although he may not have received all of the letters sent to him, the Chamber has received confirmation that he received its letter of 27 July 2000, which specifically informed him that if he did not reply to it the Chamber might decide to strike the case from its list.
10. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. 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

11. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel