



DECISION TO STRIKE OUT

Case no. CH/00/3711

Nikola RADOŠEVIĆ

against

THE REPUBLIKA SRPSKA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 September 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

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 Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant was the pre-war occupancy right holder over an apartment located at Ulica Ključka 12 in Sanski Most, the Federation of Bosnia and Herzegovina.
2. On 29 July 1999, the Service of Spatial Planning, Property-Legal and Housing Affairs of Municipality Sanski Most (the First Instance Organ) issued a decision confirming the applicant's right to repossess his pre-war apartment.
3. On 28 March 2000, the applicant requested the First Instance Organ to enforce its decision of 29 July 1999. He did not receive any answer.
4. Meanwhile, the applicant was a temporary occupant of a house at Ulica Simeuna Đaka 12 in Banja Luka. On 21 September 1999, the Ministry for Refugees and Displaced Persons in Banja Luka issued a decision ordering the applicant's eviction from the house he occupied. On 4 April 2000, the applicant was evicted from the house.

II. COMPLAINTS

5. The applicant alleges violations of his rights as protected by Articles 6 and 8 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was received and registered by the Chamber on 29 March 2000.
7. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to prevent his eviction until he either repossessed his pre-war apartment at Ulica Ključka 12 in Sanski Most or obtained alternative accommodation. On 4 April 2000, the Chamber refused the provisional measure requested.
8. When informing the applicant of the refusal of his request for a provisional measure on 4 April 2000, the Chamber asked him if he wanted to proceed with his application under the 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 out his application. No reply was received to this letter. On 7 June 2000, the Chamber sent a reminder letter to the applicant.
9. On 9 June 2000, the applicant wrote to the Chamber informing it that he had been evicted from the house at Ulica Simeuna Đaka 12 in Banja Luka. In the same letter the applicant asked the Chamber to order the respondent Party, as a provisional measure, to reinstate him into possession of his apartment in Sanski Most. On 14 December 2000, the Chamber refused this second request for a provisional measure.
10. On 14 December 2000, the applicant was informed of the refusal of his second request for a provisional measure. He was asked if he wanted to proceed with his application under the circumstances, and if so, to provide certain additional information. He was also informed that if he did not reply within three weeks, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out.
11. On 17 April 2001, the respondent Party informed the Chamber that the applicant had entered into possession of his apartment in Sanski Most on 30 November 2000.
12. The Chamber wrote to the applicant on 21 May 2001 asking him to provide written observations concerning the above-mentioned information within three weeks.

13. On 24 July 2001, the Chamber wrote to the applicant once again, by registered mail, asking him to reply to its letter of 21 May 2001 and enclosing a copy of that letter. He was also informed that if he did not reply within three weeks, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out. On 3 August 2001, the Chamber received a signed certificate of delivery of its letter of 24 July 2001. No reply was received to this letter.

IV. OPINION OF THE CHAMBER

14. 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.”

15. 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, especially since the main issue raised in the application appears to have been resolved. The Chamber therefore decides to strike out the application.

V. CONCLUSION

16. 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