



DECISION TO STRIKE OUT

CASE No. CH/00/5010

Milovan BUGARIN

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 April 2001 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. 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application concerns the applicant's attempts to regain possession of an apartment at Ulica Konatur 10a in Travnik. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to make an inventory list of his moveable property in the apartment. On 8 June 2000 the Chamber ordered the provisional measure requested. On 19 June 2000 the respondent Party complied with the order.

II. FACTS

2. The applicant is the pre-war occupancy right holder of the apartment at issue. He left the apartment together with his family in 1992.

3. On 28 December 1998 the applicant requested the Service for Housing and Communal Affairs of Municipality Travnik ("the Service") to reinstate him into his apartment. He did not receive any answer. On 3 September 1999 the applicant appealed to the Ministry for Urbanism, Urban Planning and Environment of Canton 6 in Travnik ("the Ministry"). On 15 October 1999 the Ministry ordered the Service to deal with the request of 28 December 1998 urgently.

4. On 28 October 1999 the Commission for Real Property Claims of Displaced Persons and Refugees ("the Annex 7 Commission") issued a decision confirming the applicant's occupancy right over the apartment at issue. On 2 February 2000 the applicant requested the Service to enforce the decision of 28 October 1999. On 11 February 2000 the applicant repeated his request. He did not receive any answer. On 12 April 2000 the applicant appealed to the Ministry.

5. On 8 June 2000 the Chamber ordered the respondent Party, as a provisional measure, to safeguard the applicant's moveable property in the apartment by making an inventory list of it.

6. On 8 June 2000 the Service issued a procedural decision ordering the current occupant of the apartment to vacate it within 15 days.

7. On 19 June 2000 the Service made the inventory list of the applicant's moveable property in the apartment, as ordered by the Chamber.

8. On 24 July 2000 the applicant repossessed the apartment at issue.

III. PROCEEDINGS BEFORE THE CHAMBER

9. The application was introduced on 31 May 2000. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to make the inventory list of his moveable property in the apartment.

10. On 8 June 2000 the Chamber issued an order for provisional measures, ordering the respondent Party to safeguard the applicant's moveable property in the apartment by making an inventory list of it. On 19 June 2000 the respondent Party complied with the order.

11. On 12 June 2000 the case was transmitted to the respondent Party under Articles 6 and 8 of the European Convention and Article 1 of Protocol 1 to the European Convention.

12. On 12 July 2000 the respondent Party submitted observations on admissibility and merits. The respondent Party stressed that the applicant had failed to initiate an administrative dispute and, so, to exhaust all domestic remedies. Further, the respondent Party pointed out that the applicant had requested the enforcement of the Annex 7 Commission's decision on 11 February 2000 and that the execution of it had been ordered on 8 June 2000 (after only 4 months).

13. On 24 July 2000 and 21 August 2000 the Chamber received the applicant's response containing a compensation claim. The applicant requests the Chamber to order the respondent Party

to compensate him in the amount of KM 40,600 for moveable property missing in the apartment and KM 100 per month from June 1999 until July 2000 for rental costs. The applicant submitted a list of moveable property he left in the apartment in 1992 and which property he did not find when the inventory list was made. However, there is no evidence that the missing items disappeared after 14 December 1995, the date of entry into force of the General Framework Agreement for Peace in Bosnia and Herzegovina. As regards the rental costs, the claim was not documented.

14. The Chamber did not receive the respondent Party's observations on the compensation claim.

IV. COMPLAINTS

15. The applicant alleges violations of Articles 6, 8 and 14 of the European Convention and Article 1 of Protocol 1 to the European Convention.

V. OPINION OF THE CHAMBER

16. The Chamber notes that the applicant was reinstated in a relatively short time after he sought the enforcement of the Annex 7 Commission decision. Although the deadline for reinstatement had already expired, when the applicant was reinstated the main issue was resolved. Since there is no substantiation of the loss of his moveable property after the General Framework Agreement for Peace in Bosnia and Herzegovina entered into force on 14 December 1995, the Chamber finds that it is no longer justified to continue the examination of the application. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. It follows that the application may be struck out of the list, pursuant to Article VIII(3)(b) and (c) of the Agreement.

VI. CONCLUSION

17. For these reasons, the Chamber, unanimously,

STRIKES THE APPLICATION OUT.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel