



DECISION TO STRIKE OUT

Cases nos. CH/00/5189, CH/00/5194 and CH/00/5206

Mehmedalija ŠUKILOVIĆ, Mensur VELAGIĆ and Alija ĐEZIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING
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 Article VIII(3) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The cases concern the applicants' attempts to regain possession of their pre-war property located in Janja, Municipality Bijeljina, in the Republika Srpska.

II. FACTS

1. Case no. CH/00/5189 Mehmedalija ŠUKILOVIĆ

2. The applicant is the owner of a house located at Braće Lazića 131 in Janja. On a date unknown to the Chamber, the applicant submitted a request for repossession of his property to the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC"). On 14 May 1998, the CRPC issued a decision confirming that the applicant was a *bona fide* possessor of the property on 1 April 1992. On 21 February 2000, the applicant filed a request for execution of the CRPC decision to the Ministry of Refugees and Displaced Persons in the Republika Srpska, Department in Bijeljina (the "Ministry"). There is no evidence in the case file that the Ministry issued a conclusion on the enforcement of the CRPC decision.

2. Case no. CH/00/5194 Mensur VELAGIĆ

3. The applicant is the owner of a house located at Semberska 47 in Janja. On a date unknown to the Chamber, the applicant submitted a request for repossession of his property to the CRPC. On 5 August 1999, the CRPC issued a decision confirming that the applicant was a *bona fide* possessor of the property on 1 April 1992. On 22 March 2000, the applicant filed a request for execution of the CRPC decision to the Ministry. There is no evidence in the case file that the Ministry issued a conclusion on the enforcement of the CRPC decision.

3. Case no. CH/00/5206 Alija ĐEZIĆ

4. The applicant is the owner of a house located at Braće Lazića bb in Janja. On a date unknown to the Chamber, the applicant submitted a request for repossession of his property to the CRPC. On 14 May 1998, the CRPC issued a decision confirming that the applicant was a *bona fide* possessor of the property on 1 April 1992. On 27 December 1999, the applicant filed a request for execution of the CRPC decision to the Ministry. There is no evidence in the case file that the Ministry issued a conclusion on the enforcement of the CRPC decision.

5. In 2002, on dates unknown to the Chamber, all three applicants entered into possession of their pre-war property.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The applications were introduced on 21 June 2000 and registered on 23 June 2000.

7. On 16 and 18 October 2001, the Chamber transmitted the applications to the respondent Party for its observations on the admissibility and merits under Articles 6, 8, 13 and 14 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention. On 10 December 2001 the respondent Party submitted its observations.

8. On 7 August 2002, the applicants submitted information to the Chamber that they had regained possession of their property, but they did not state whether they wished to continue with their applications or whether they considered their matters resolved.

IV. OPINION OF THE CHAMBER

9. 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 ... (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 application; provided that such a result is consistent with the objective of respect for human rights.”

10. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their property and while the cases were still pending before the Chamber, they regained such possession.

11. It would be open to the Chamber to consider the admissibility and merits of a case, when, as in the present cases, the question arises whether the time-limits and other procedural requirements prescribed by domestic law have been complied with by the authorities. If it found a violation, then the Chamber would address the question of whether any remedies should be ordered, including compensation.

12. However, as the Chamber explained in the case of *S.P.* (case no. CH/99/2336, decision to strike out of 2 July 2001, Decisions July–December 2001), the Chamber is not unmindful of the difficulties faced by the domestic authorities in implementing the property legislation in force in a timely manner. Consequently, where it is established that the domestic authorities, albeit belatedly, have taken effective action and where the applicants have in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application, unless there are particular reasons, apart from the delays in the reinstatement, that require continued consideration.

13. Turning to the facts of the present cases, the Chamber notes that the applicants were reinstated into possession of their property in 2002. That being so, the Chamber considers that the main issues raised in the applications have been resolved. Apart from the delays that occurred in securing their reinstatement, the applicants have not drawn the Chamber’s attention to any special circumstances regarding the respect for human rights which would require the examination of the applications to be continued after the main issues raised in the applications have been resolved, and the Chamber considers that no such special circumstances are present in these applications. The Chamber, therefore, decides to strike out all three applications, pursuant to Article VIII(3) of the Agreement.

V. CONCLUSION

14. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATIONS.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel