



DECISION TO STRIKE OUT

Case no. CH/02/9318

Sabrija MUJEZINOVIĆ, Abdulah RUDANOVIĆ, Ekrem RUDANOVIĆ and Enver RUDANOVIĆ

against

THE REPUBLIKA SRPSKA

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

I. INTRODUCTION

1. The applicants, who are represented by Mr. Zijad Mehmedagić, a lawyer practising in Zenica, complain of the fact that the Doboj Municipality deprived them from land which they used and allocated it to the Serb Orthodox Church of the Doboj Municipality for the construction of a church.
2. The applicants requested the Chamber to order the respondent Party, as provisional measure, not to dispose of or permit any construction upon the disputed land. On 5 November 2002, the Chamber decided not to order the provisional measure requested.

II. FACTS

3. On 29 December 1998, the Doboj Municipality Assembly issued a procedural decision allocating city building land to the Serb Orthodox Church for the purpose of constructing a Memorial Church. By this procedural decision, the Serb Orthodox Church was allocated, *inter alia*, cadastral plot no. 6823/2, registered in the deed of title no. 4139 of the Doboj Municipality Cadastre (old cadastral plot no. 306/12) and registered in the land book excerpt no. 1262 for users Sabrija (nee RUDANOVIĆ) MUJEZINOVIĆ, Abdulah (son of Adil) RUDANOVIĆ, Ekrem (son of Adil) RUDANOVIĆ, and Enver (son of Adil) RUDANOVIĆ (*i.e.* the applicants), each in 1/4 parts.
4. The same procedural decision established the compensation for this land in the amount of 5,512.00 DM, payable in dinars, and obliged the Serb Orthodox Church of the Doboj Municipality to pay such compensation to the users (*i.e.* the applicants) after the procedural decision in question became enforceable.
5. It appears from the reasoning of the procedural decision that the applicants did not participate in the administrative procedure preceding the issuance of the procedural decision of 29 December 1998. A temporary representative, who was appointed to the applicant Abdulah Rudanović, stated at the hearing held on 17 November 1998, that he did not object to the allocation of the building land for the construction of the church.
6. The procedural decision allowed no appeal, but it did provide that an administrative dispute could be initiated before the District Court in Doboj. The applicants timely initiated an administrative dispute, but they stated in their application form “that this procedure only confirmed the seizure of the land”.
7. However, the Chamber was informed that the District Court in Doboj, on 4 March 2002, issued its decision in the administrative dispute and annulled the procedural decision of the Doboj Municipality Assembly Doboj in the part relating to the seizure of the land from the applicants.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was introduced on 25 February 2002 and registered on 26 February 2002.
9. On 5 November 2002, after it was informed of the decision of the District Court in Doboj of 4 March 2002, the Chamber decided to request the applicants to comment the mentioned decision.
10. On 6 November 2002, the Chamber sent a letter to the applicants’ representative, via registered mail, requesting him to comment upon the decision of the District Court in Doboj and to provide updated information about the state of the proceedings before the domestic organs. According to the delivery receipt, the applicants’ representative received the letter from the Chamber on 12 November 2002, but he has not responded to it.
11. On 29 November 2002, the Chamber sent a letter to the respondent Party, requesting information on whether the decision of 4 March 2002 had been delivered to the applicants. On 17 December 2002, the respondent Party informed the Chamber that the decision of the District Court in Doboj of 4 March 2002 was delivered to the applicant Mujezinović on 12 March 2002. Also, the

respondent Party informed the Chamber that the other applicants authorised the applicant Mujezinović to receive all written documents from the court in this administrative dispute.

12. On 15 January 2003, the Chamber sent a letter, via registered mail, to the applicants' representative requesting him to comment on the additional information submitted by the respondent Party. The applicants' representative was cautioned that the Chamber might decide to strike out the application if no response was received within the time limit. According to the delivery receipt, the applicants' representative received the letter on 22 January 2003, but no answer has been received, and the time limit set expired on 30 January 2003.

IV. COMPLAINTS

13. The applicants complain their right to a fair trial protected under Article 6 of the European Convention on Human Rights (the "Convention"), their right to an effective remedy protected under Article 13 of the Convention, and their right to peaceful enjoyment of possessions protected under Article 1 of Protocol No. 1 to the Convention have been violated.

V. 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. Considering that the applicants' representative failed to respond to the letters sent to him by the Chamber, although he received these letters and was specifically advised to respond within set time limits and cautioned that the failure to do so might result in the application being struck out, the Chamber finds that the applicants do 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.

VI. 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