



DECISION TO STRIKE OUT THE APPLICATION

DELIVERED IN WRITING ON 22 JULY 1998

in

CASE No. CH/97/53

Ivo ĐIKIĆ

against

the Federation of Bosnia and Herzegovina

The Human Rights Chamber for Bosnia and Herzegovina, sitting on 17 July 1998 in a panel composed of the following Members:

Michèle PICARD, President
Dietrich RAUSCHNING, Vice-President
Hasan BALIĆ
Rona AYBAY
Želimir JUKA
Miodrag PAJIĆ
Andrew GROTRIAN

Peter KEMPEES, Registrar
Olga KAPIĆ, Deputy Registrar

Having considered the application by Ivo Đikić transmitted to the Chamber by his sister and representative Ljiljana Đikić on 14 July 1997 under 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 and registered on 18 August 1997 under Case No. CH/97/53;

Adopts the following Decision striking out the application under Article VIII paragraph 3 (a) and Article XI of the Agreement and Rules 52 and 55 of its Rules of Procedure.

I. FACTS

1. The facts are based on the application and appended documents as well as subsequent submissions by the applicant and the respondent Party and can be summarised as follows:
2. The applicant privately owns a house in Uskoplje (Gornji Vakuf). Because he lives and works in Germany, he permitted his sister (who is acting as his representative in the present case) to live in his house because her own house was destroyed during the war. She has lived in the house from May 1994 until present. On 7 July 1995 Mr. Marko Šako and his family forcibly moved into the house. The applicant's sister immediately summoned the police. Mr. Šako showed the police a decision issued by the Municipality of Uskoplje on 20 June 1995, declaring the house abandoned and allocating to him the use of the house for one year after the cessation of war and imminent threat of war.
3. The applicant's sister occupied the ground floor of the house, while Mr. Šako and his family occupied the upper floor of the house. The applicant's sister claimed that Mr. Šako verbally and physically abused her. In August 1996 she told him that his right to occupy the house for one year had expired and demanded that he move out. He refused, and she claimed that his abusive behaviour intensified.
4. The applicant's sister subsequently issued proceedings before the Court of First Instance in Bugojno. On 12 November 1996 the court ruled in favour of the applicant's sister and ordered Mr. Šako to vacate the house within 15 days. On 8 April 1997 Mr. Šako appealed to the High Court of Travnik in Vitez, which ruled in his favour. The High Court held that the Court of First Instance mistakenly considered the date of the cessation of war and imminent threat of war to be 30 March 1994 (when the Washington Agreement came into force), when in fact the war and imminent threat of war did not end until 23 December 1996, when the Federation issued its Decree on the Cessation of Applying the Decree on Proclaiming the Immediate Threat of War. The applicant's sister subsequently applied for protection of legality to the Federal Prosecutor's Office. On 28 May 1997 the Federal Prosecutor's Office denied her request.
5. On 5 February 1998 Mr. Šako vacated the house and the applicant regained full possession.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was received by the Chamber on 27 July 1997 and registered on 18 August 1997.
7. On 9 March 1998 the Chamber considered the case and decided to issue an Order of Proceedings and transmit the application to the respondent Party for observations on the admissibility and merits. On 9 March 1998 the Chamber issued the Order of Proceedings.
8. By letter dated 3 April 1998 the respondent Party informed the Chamber that Mr. Šako had vacated the house and returned it to the applicant. Appended to the letter was a letter issued by the Municipality of Uskoplje dated 5 February 1998 stating that Mr. Šako vacated the house on the same day.
9. On 15 April 1998 the Chamber requested the applicant to inform the Chamber whether he wished to proceed with the case or alternatively, whether he wished to reach a friendly settlement. The applicant was also asked whether he wished to claim any monetary compensation or other relief.
10. By letter dated 13 May 1998 the applicant's sister informed the Chamber that she no longer wished to pursue her application, stating that "since I effectuated my rights through other institutions, and because of your slowness and ineffectiveness in solving my case I desist from further procedure."

11. On 12 June 1998 the Chamber considered the case, in light of the above developments.

III. COMPLAINTS

12. The applicant alleged a violation of his rights as guaranteed by Article 1 of Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

IV. OPINION OF THE CHAMBER

13. Article VIII (3) (a) of the Agreement provides, in relevant part, as follows:

“The Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that the applicant does not intend to pursue his application ... provided that such result is consistent with the objective of respect for human rights.”

14. According to the letter to the Chamber dated 13 May 1998 from the applicant's sister, she no longer wishes to pursue the application before the Chamber. In the circumstances, the Chamber finds it consistent with the objective of respect for human rights to strike out the application.

V. CONCLUSIONS

15. For the above reasons the Chamber unanimously

DECIDES TO STRIKE OUT THE APPLICATION.

(signed) Peter KEMPEES
Registrar of the Chamber

(signed) Michèle PICARD
President of the Chamber