



DECISION TO STRIKE OUT

CASE No. CH/98/1189

Slavko DIVLJAK

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 July 1999 with the following members present:

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

Mr. Leif BERG, 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 as well as Rule 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant has been occupying an apartment located at Sime Matavulja Street No. 4/III in Banja Luka, Republika Srpska. On 25 October 1993 the "Veletekstil" Company allocated the apartment to the applicant. The allocation was valid until 31 March 1994.
2. On 12 December 1997 the Municipal Secretariat for Housing-Communal Affairs in Banja Luka issued a decision ordering the applicant's eviction from the apartment. The applicant has appealed against the decision, and consequently initiated an administrative dispute before the Supreme Court of Republika Srpska.
3. There have been a number of attempts to evict the applicant, apparently none of them successful.

II. COMPLAINT

4. The applicant made no allegation of violation of any his human rights protected by the Agreement.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 24 September 1998 and registered on the following day. The applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary action to prevent the eviction.
6. On 29 September 1998 the President of the Chamber refused the request for provisional measure. On 30 September 1998 a letter was sent to the applicant informing him about refusing of his request and asking him to inform the Registry whether he wanted to pursue with his application by 30 October 1998. There was no reply.
7. On 18 March 1999 a reminder of the letter of 30 September 1998 was sent by registered mail. This letter warned the applicant that if he did not reply by 8 April 1999 the Chamber would strike out the application. The letter was delivered to the applicant's brother on 22 March 1999. There has been no reply.

IV. OPINION OF THE CHAMBER

8. According to Article VIII(3) of the Agreement, the Chamber may at any point decide to strike out an application on the ground that (a) the applicant does not intend to pursue his application; (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 case. In all these situations, however, a decision to strike out an application must be consistent with the objective of respect for human rights.
9. In the present case the Chamber notes that the applicant was asked whether he wanted to pursue his application. Already in the letter of 30 September 1998 he was warned that the Chamber would conclude that he did not want to pursue with his application in case he did not reply to that letter within one month. After this standard letter had been ignored, the Chamber warned the applicant that his case would be struck out if he did not reply. The Chamber has no reason to doubt that the applicant was informed about the letter.
10. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. In these circumstances it is no longer justified to continue the examination of the case and such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

11. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel