



DECISION TO STRIKE OUT

Case no. CH/98/1226

Abdulah MALKOČ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 10 January 2003, with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

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 case concerns the applicant's attempts to regain possession of his pre-war property, located at Liskovac in Gradiška, the Republika Srpska.
2. On 12 August 1998, the applicant lodged a request for repossession before the Ministry for Refugees and Displaced Persons, Gradiška Department.

II. COMPLAINTS

3. The applicant alleges a violation of his rights as protected by Articles 8, 13 and 14 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention, as well as violations of Annexes 6 and 7 to the General Framework Agreement.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 15 October 1998 and registered on the same day.
5. On 17 March 1999, the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, as well as Article II(2)(b) of the Agreement.
6. On 29 June 2001, the respondent Party provided information to the Chamber that the applicant had regained possession of his property in June 1999.
7. On 29 October 2001, the Chamber wrote to the applicant asking him to confirm this information. He was cautioned that if he did not reply within 15 days, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out. No reply was received to this letter.
8. On 20 June 2002, the Chamber sent a reminder letter to the applicant, by registered mail, enclosing a copy of the letter of 29 October 2001 and asking for his reply. The applicant was again cautioned that the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out, if no answer was received within seven days. On 21 June 2002, the Chamber received the signed delivery receipt for its letter of 20 June 2002, but no reply was received to this letter. The Chamber sent another reminder letter on 23 September 2002. On 27 September 2002 the Chamber received the signed delivery receipt for its letter of 23 September 2002, but no reply was received to this letter either.

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 (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."
10. The Chamber notes that the applicant has not replied to the letters it sent to him. The Chamber further notes that these letters specifically cautioned the applicant that if he did not reply, the Chamber might assume that he did not wish to proceed with his application. Accordingly, the Chamber finds that the applicant does 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.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel