



DECISION TO STRIKE OUT

CASE No. CH/98/1389

Milenko DUVNJAK

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 Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant occupies a house located at Put srpskih branilaca Street No. 266, Banja Luka, Republika Srpska. He occupies it upon decision of the Commission for Accommodation of Refugees and Administration of Abandoned Property ("the Commission") in Banja Luka of 9 December 1996. On 28 July 1997 the Commission invalidated the decision of 9 December 1996, following request of the owner of the house. The applicant appealed against the decision of 28 July. On 11 August 1997 the Ministry for Refugees and Displaced Persons (the "Ministry") refused his appeal.

2. The owner initiated civil proceedings before the Municipal Court in Banja Luka ("the court") requesting the applicant's eviction. The court granted the owner's request and on 11 September 1998 issued a decision ordering the applicant to vacate the house. The applicant appealed against the decision. There is no information whether there have been any developments in the appeal proceedings. On 6 and 29 October 1998 the court issued conclusions ordering forcible eviction of the applicant.

II. COMPLAINTS

3. The applicant generally complained of his threatened eviction.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 9 November 1998 and registered on the same day. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction from the house referred to at paragraph 1 above.

5. On 11 October 1998, the First Panel refused the request for a provisional measure. The applicant was informed of this decision by the Registry by telephone. On 17 November 1998, the Registry wrote to the applicant confirming the decision of the Panel in writing.

6. On 23 March 1999 the Registry sent a letter to the applicant reminding him of the letter of 17 November. The letter stated that if no reply was received the Chamber would assume that he no longer wished to pursue his application. No reply was received.

7. On 27 May 1999 the Registry sent a registered letter reminding him of the letters of 17 October 1998 and 23 March 1999. The letter warned the applicant that if the Chamber received no reply within two weeks (i.e. until 10 June 1999) it would conclude that he does not want to pursue his application and would strike his case out. There was 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 has not replied to the letter of the Registry of 27 May 1999 referred to at paragraph 7 above.

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