



DECISION TO STRIKE OUT

Case no. CH/98/1684

Čedo POPOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 November 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK

Mr. Anders MÅNSSON, 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 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, occupied an apartment located in a house at Miloša Obilića 41, Banja Luka. On 1 December 1994, he entered into a contract for the purchase of the apartment with the owner of the house. The price was 1,500 German Marks. The Municipal Court in Banja Luka refused to validate the contract. As a result, the applicant and the owner of the house entered into a rental contract over the apartment. This contract was for an indefinite period of time. It was validated by the Municipal Court in Banja Luka.
2. The applicant has initiated proceedings seeking to be registered as the owner of the house, which are still pending.
3. On 29 October 1998 the Commission for the Accommodation of Refugees and Administration of Abandoned Property in Banja Luka allocated the apartment to a third party, a displaced person. On 2 November 1998 the applicant complained to the Commission against this decision. He has not informed the Chamber of the outcome of this appeal, nor of whether he still occupies the apartment. He has not been in contact with the Chamber since the date of lodging his application.

II. COMPLAINTS

4. The applicant complains that his property rights would be violated were he to be evicted, and also states that he should not be evicted, as he has a wife and child.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 7 December 1998 and registered on the same day. The applicant requested the Chamber to order the respondent Party as a provisional measure to take all necessary action to prevent his eviction. On 10 December 1998 the Vice-President of the Second Panel made an order in these terms and transmitted the case to the respondent Party for observations.
6. On 5 January 1999 the Chamber received certain information from the person who had been allocated the apartment by the Commission. This person claimed that the applicant was not a refugee or displaced person and therefore was not entitled to occupy the apartment, which he claimed could only be allocated to such persons. The Second Panel considered this information at its session in January 1999 and decided not to withdraw the provisional measure.
7. On 24 April 1999 the observations of the respondent Party were received. On 5 May 1999 they were transmitted to the applicant for his further observations in response and any claim for compensation or other relief he wished to make. No reply was received from the applicant.
8. On 5 August 1999 the Chamber wrote to the applicant by registered post, reminding him that no reply had been received to its letter of 5 May 1999 and enclosing a copy of that letter. He was informed that if he did not reply to this second letter within three weeks, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out of its list. No reply was received to this letter. The Chamber received a receipt of delivery in respect of the letter signed by the applicant himself.

IV. OPINION OF THE CHAMBER

9. 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.

10. The Chamber has received a certificate of delivery of the registered letter sent to the applicant on 5 August 1999, signed by the applicant himself. This letter informed him that if he did not reply to it within three weeks, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out of its list. There has been no response to this letter, nor has the applicant had any contact with the Chamber since the lodging of the application in December 1998.

11. 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. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

**REVOKES THE PROVISIONAL ORDER ISSUED ON 10 DECEMBER 1998; AND
STRIKES OUT THE APPLICATION.**

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel