



DECISION TO STRIKE OUT

Case no. CH/98/1799

Obrad SIMIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 April 2003 with the following members present:

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

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 as well as Rule 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The applicant entered the apartment at Nikole Pašića Street 77 in Doboj, the Republika Srpska on the basis of the contract on use of the apartment dated 9 May 1994, issued by the allocation right holder. The contract on use was of a temporary duration and was thereafter extended for a limited period.

2. On the basis of the Law on Use of Abandoned Property, the Ministry for Refugees and Displaced Persons ("the Ministry") issued a procedural decision on 2 October 1998 ordering the applicant to vacate the apartment in question.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was received on 25 December 1998 and registered on the same day.

4. On 28 December 1998, the President of the First Panel ordered the respondent Party, as a provisional measure, to take all necessary action to prevent the applicant's eviction.

5. The respondent Party submitted its observations on admissibility and merits on 21 April 1999.

6. On 16 December 1999, the Chamber sent a letter to the respondent Party seeking observations on the effect of the new Article 30 of the Law on Amendments to the Law on Use of Abandoned Property to the present case and whether further attempts would be made to evict the applicant. On 26 January 2000, the respondent Party responded that its relevant organs no longer conduct proceedings under the old law, but rather follow the procedures set out in the new law.

7. On 22 March 2000, the Chamber wrote to the applicant, enclosing a copy of the respondent Party's letter of 26 January 2000. It asked him to state whether, in view of the fact that the proceedings under the old law to evict him have been terminated, he considers the matter resolved.

8. On 26 June 2000, the Chamber sent another letter to the applicant, by registered mail, asking him to reply to its letter of 22 March 2000 and enclosing a copy of that letter.

9. On 10 December 2001 the Chamber wrote to the respondent Party and the applicant requesting new information. No response was received from either the respondent Party or the applicant.

10. On 26 December 2002, the Chamber sent a reminder letter to the applicant, by registered mail, asking him to reply to its letter of 10 December 2001 and enclosing a copy of that letter. This letter also cautioned the applicant that if he did not reply to it, 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. The Chamber sent a reminder letter to the applicant on 23 January 2003. On 27 January 2003, the Chamber received the certificate of delivery of its letter of 23 January 2003, signed by the person residing at the address given by the applicant in his application, but it received no reply to this letter either.

III. OPINION OF THE CHAMBER

11. 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."

12. 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. 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.

IV. CONCLUSION

13. For these reasons, the Chamber, unanimously,

**STRIKES OUT THE APPLICATION and
WITHDRAWS ITS ORDER FOR A PROVISIONAL MEASURE WITH IMMEDIATE EFFECT.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michele PICARD
President of the First Panel