



DECISION TO STRIKE OUT

CASE No. CH/98/482

M.S.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 June 2001 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. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Peter KEMPEES, 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was referred to the Chamber by the Human Rights Ombudsperson for Bosnia and Herzegovina on 4 May 1998. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from an apartment which he occupied, located at ul. Branka Morače 10 in Banja Luka, the Republika Srpska. On 5 May 1998 the President of the Chamber so ordered.

2. The applicant complained of repeated attempts made by the Ministry for Refugees and Displaced Persons in Banja Luka to evict him from the said apartment pursuant to the Law on the Use of Abandoned Property (Official Gazette of the Republika Srpska "OG RS" – No.3/96).

3. The application was transmitted to the respondent Party for its observations on the admissibility and merits on 29 June 1998. The respondent Party did not submit any such observations within specified time limit. On 18 August 1999 the applicant submitted further arguments in writing. In its observations in reply to these, dated 6 September 1999, the respondent Party expressed the opinion that the application should be declared inadmissible as manifestly ill-founded.

4. By a letter dated 22 March 2000 the agent of the respondent Party informed the Chamber that since the entry into force, on 11 December 1998, of the Law on Cessation of the Application of the Law on the Use of Abandoned Property (OG. RS No. 38/98, 12/99, 31/99, 38/99 -"the new Law") the authorities of the respondent Party no longer carried out evictions pursuant to the Law on the Use of Abandoned Property.

II. OPINION OF THE CHAMBER

5. 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 ... (b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights."

6. The Chamber finds that in view of the fact that there is now no longer any prospect of the applicant being evicted under the Law on the Use of Abandoned Property, the matter raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the applications to be continued. It follows that the application may be struck out of the list.

7. The Chamber will withdraw its order for provisional measure with immediate effect.

III. CONCLUSION

8. For these reasons, the Chamber, unanimously,

STRIKES THE APPLICATION OUT; and

WITHDRAWS ITS ORDER FOR A PROVISIONAL MEASURE WITH IMMEDIATE EFFECT.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel