



DECISION TO STRIKE OUT

CASE No. CH/98/763

Aleksandar DUGONJIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 March 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. 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 Rule 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The application concerns the right of the applicant to occupy a house at Trive Amelice No. 38 in Banja Luka.
2. On 3 November 1994, the applicant entered into a rental agreement with the owner of the house concerned in the application. The rental agreement was stamped by the Court of First Instance in Banja Luka on the same day. On 22 September 1997, the applicant received a decision from the Commission for the Resettlement of Refugees and Administration of Abandoned Property in Banja Luka ("the Commission") in Banja Luka. This decision, made under Article 10 of the Law on the Use of Abandoned Property (SG RS 3/96, since abrogated), declared the applicant an illegal use of the house and ordered him to vacate it within three days. On 25 September 1997, within the time-limit provided for, the applicant appealed against the decision of 22 September 1997 to the Ministry for Refugees and Displaced Persons ("the Ministry"). According to the information provided to the Chamber, there has been no decision on this appeal to date.
3. On 14 May 1998, the Commission issued a further decision, in the same terms as that of 22 September 1997. The applicant appealed against this decision to the Ministry on 17 May 1998. According to the information provided to the Chamber, there has been no decision on this appeal to date.
4. The applicant has not been in contact with the Chamber since lodging his original application. The Chamber has been informed that the applicant was evicted. This fact has not been confirmed to the Chamber by either Party.

II. COMPLAINTS

5. The applicant complained that his rights as protected by Articles 6 and 8 of the European Convention on Human Rights ("the Convention") have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 13 July 1998 and registered on the same day.
7. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction. On 17 July 1998, the President of the Chamber ordered, pursuant to Rule 36(2), the respondent Party to take all necessary action to prevent the applicant's eviction.
8. On 4 August 1998 the First Panel decided, pursuant to Rule 49(3)(b) of the Rules of Procedure to transmit the application to the respondent Party for observations on the admissibility and merits of the complaint relating to the alleged violation of the applicant's right to a fair hearing within a reasonable time as guaranteed by Article 6 of the Convention, his right to respect for his home as guaranteed by Article 8 of the Convention, his right to an effective national remedy as guaranteed by Article 13 of the Convention, and of his right to peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention.
9. The respondent Party did not submit any observations in the case.
10. On 11 August 1998, the Registry wrote to the respondent Party, informing it that the Registry had been informed that the applicant was evicted from the apartment on 17 July 1998, in contravention of the order preventing this made by the President. The respondent Party was requested to inform the Chamber of the situation by 25 August 1998. No reply has been received to date.
11. On 19 October 1999, the Registry wrote to the applicant. It informed him that no observations had been received from the respondent Party. Accordingly, any further observations and compensation claim he wished to submit were to be received by 19 November 1998. No statement was received.

12. On 25 January 1999, a reminder letter was sent to the applicant by registered post. The applicant was informed that if no reply was received by 8 February 1999, the Chamber might decide to strike out the application on the basis that he no longer wishes to pursue it. No reply has been received. The receipt returned to the Registry was signed by the applicant's wife. The applicant has not been in contact with the Chamber since the lodging of his original application in July 1998.

IV. OPINION OF THE CHAMBER

13. 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.

14. In the present case the Chamber notes that the applicant has not replied to either of the letters sent to him by the Chamber. The Chamber has received a confirmation that the applicant's wife received the letter from the Chamber dated 25 January 1999. The Chamber also notes that the covering letter of 25 January 1999 specifically informed the applicant that if he did not reply to it, the Chamber could decide to strike out his case from its list.

15. 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

16. For these reasons, the Chamber, by 5 votes to 1,

STRIKES OUT THE APPLICATION.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel