



DECISION TO STRIKE OUT

Case Nos. CH/98/860 and CH/98/960

Milena PANIĆ and Nevenka JOVIĆIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 June 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. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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 applicants both occupied apartments in Banja Luka. The applications concern attempts to evict them from those apartments.

2. In Case No. CH/98/860, the applicant occupied an apartment located at Relje Krilatice 11 in Banja Luka. The applicant lived there since 1985 with her partner, who held the occupancy right over the apartment. The applicant did not possess any legal right to occupy the apartment. On 10 October 1996, the Court of First Instance in Banja Luka ("the Court") terminated the applicant's partner's contract for the use of the apartment. The proceedings before the Court had been initiated by the Metalwork School ("*Metalska Škola*"), which claimed that the applicant's partner had abandoned the apartment. On 18 February 1997, the applicant and her partner lodged a request to the Court for the renewal of the proceedings. The applicant claims that the Court did not issue a decision on this request. On 30 September 1997, the Municipality of Banja Luka, at the request of the Metalwork School, decided to order the eviction of the applicant from the apartment. On 9 December 1997, the Republika Srpska Ministry for Urban Planning, Housing-Communal Affairs, Construction and Environment refused the applicant's appeal against the decision of the Municipality of Banja Luka. On 21 July 1998, the Secretariat for Housing Affairs of the Municipality of Banja Luka issued a conclusion ordering the applicant's eviction for 11 August 1998. The applicant has not informed the Chamber of whether the eviction took place or whether she still occupies the apartment.

3. In Case No. CH/98/960, the applicant occupied an apartment located at Srpska 12 in Banja Luka. On 14 October 1995, she entered into a contract with the holder of the occupancy right (as opposed to the holder of the allocation right over the apartment), under which she was purportedly entitled to occupy the apartment. On 17 June 1997, the Banja Luka Secretariat for Urbanism, Housing-Communal Affairs and Construction declared the applicant to be an illegal occupant of the apartment. On 14 September 1998, the Banja Luka Secretariat for Housing Affairs issued a conclusion scheduling the applicant's eviction for 22 September 1998. The applicant has not informed the Chamber of whether the eviction took place or whether she still occupies the apartment.

II. COMPLAINTS

4. The applicant in Case No. CH/98/860 did not make any specific claims of violations of her rights. She complained in a general manner of the attempts to evict her.

5. The applicant in Case No. CH/98/960 claimed that her rights to privacy, family, life and home as protected by the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") would be violated were she to be evicted.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application in Case No. CH/98/860 was introduced on 10 August 1998 and registered on the same day. The applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary action to prevent her eviction from the apartment.

7. On 10 August 1998, the President of the Chamber refused the request for a provisional measure. On 18 August 1998, the Registry wrote to the applicant at the address as given in her application to the Chamber. This letter stated that if no reply was received to that letter within four weeks, the Chamber would proceed on the assumption that she did not wish to proceed with her application to it. On 16 March 1999, the Registry wrote to the applicant again by registered mail. She was asked to reply to the Chamber's letter of 18 August 1998 and informed that if she did not do so, the Chamber might decide that she no longer wished to proceed with her application and strike it from its list pursuant to Article VIII(3)(a) or (c) of the Agreement. The letter was returned undelivered to the Chamber. The Post Office receipt stated that the applicant had moved away. The applicant has not been in contact with the Chamber since she lodged her application on 10 August 1998.

8. The application in Case No. CH/98/960 was introduced on 17 September 1998 and registered on the same day. The applicant requested that the Chamber order the respondent Party as

a provisional measure to take all necessary action to prevent her eviction from the apartment.

9. On 24 September 1998, the President of the Chamber refused the request for a provisional measure. The applicant was informed of this decision by the Registry in writing on the same day. This letter stated that if no reply was received within four weeks, the Chamber would proceed on the assumption that she did not wish to proceed with her application to it. On 18 March 1999, the Registry wrote to the applicant again by registered mail. She was asked to reply to the Chamber's letter of 24 September 1998 and informed that if she did not do so, the Chamber may decide that she no longer wished to proceed with her application and strike it from its list pursuant to Article VIII(3)(a) or (c) of the Agreement. The letter was returned undelivered to the Chamber. The Post Office receipt stated that the applicant was not known at the address, which was the one the applicant gave in her application to the Chamber. The applicant has not been in contact with the Chamber since she lodged her application on 17 September 1998.

10. On 11 June 1999, the Second Panel of the Chamber decided to join the applications, in accordance with Rule 34 of the Chamber's Rules of Procedure.

IV. OPINION OF THE CHAMBER

11. 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.

12. In the present cases the Chamber notes that the applicants have not replied to the first letter sent to them by the Registry. Even though the Chamber is aware that the applicants did not receive the second letter sent to them (on 16 and 18 March 1999 respectively), and possibly also not the first (sent on 18 August 1998 and 24 September 1998 respectively), it would have been incumbent on them at any rate to keep the Chamber informed of any developments in their cases as well as of any changes of address. Since the date of lodging their applications (10 August and 17 September 1998 respectively), the applicants have not been in contact with the Chamber.

13. Accordingly, the Chamber concludes that the applicants do not intend to pursue their applications. 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

14. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATIONS.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel