



DECISION TO STRIKE OUT

**CASE Nos. CH/98/926, CH/98/1246, CH/98/1278, CH/98/1286, CH/98/1392,
CH/98/1398**

**Slaviša PEĆANAC, Gojko POPOVIĆ, Nenad TEIĆ, Spase MRĐA, Nedeljko GRAČANIN,
Mirjana KURIDŽA**

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 applications 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 applications concern attempts by the authorities of the Republika Srpska to evict the applicants from the properties they occupied. The facts of each application are set out below.

A. Case No. CH/98/926 Slaviša Pećanac v. Republika Srpska

2. The applicant occupied an apartment located at Kozarska 37, Banja Luka (“the apartment”) in accordance with a decision of the Commission for the Accommodation of Refugees and Administration of Abandoned Property (“the Commission”) in Banja Luka. In two decisions dated 9 February 1998, the Commission ordered him to vacate the apartment and allocated another property to him. On 26 March 1998, the Ministry for Refugees and Displaced Persons refused his appeal against the two decisions of the Commission of 9 February 1998. On 6 May 1998, the applicant appealed to the Supreme Court of the Republika Srpska. The applicant has not informed the Chamber of whether there has been any decision on this appeal to date. Neither has he informed the Chamber of whether he still occupies the apartment.

B. CH/98/1246 Gojko Popović v. Republika Srpska

3. The applicant occupied an apartment located in Desanke Maksimović 14 in Kozarska Dubica. Prior to her death, his mother had entered into a contract for the exchange of this apartment with another person. Under this contract, the applicant’s mother sought to exchange her occupancy right over an apartment in Croatia for the occupancy right over the apartment concerned in the application. This contract was validated by the Municipal Court in Kozarska Dubica. This contract for exchange was not carried out with the prior consent of the holder of the allocation right over the apartment concerned in the application. The applicant’s mother died on 4 September 1994. On 8 October 1998 the Kozarska Dubica Secretariat for Administrative Affairs authorised the eviction of the applicant’s wife from the apartment. On 21 October 1998, the same organ issued a conclusion ordering such eviction to take place on 23 October 1998. The Chamber received information from the OSCE Field Office in Prijedor to the effect that the applicant and his wife did not reside in the apartment concerned. Instead, they lived in another apartment and rented the apartment concerned in the application to a third party under a private agreement.

4. The applicant has not informed the Chamber of whether he initiated any proceedings against the decisions of the Municipality nor of whether he still occupies the apartment.

C. CH/98/1278 Nenad Teić v. Republika Srpska

5. The applicant occupied an apartment located at Pećani G-1 in Prijedor. On 29 October 1992, he was allocated the apartment for a one-year period by a decision of the holder of the allocation right over it. On 1 April 1998, the Commission declared the applicant to be an illegal occupant of the apartment and ordered him to vacate it within three days under threat of forcible eviction. On 12 May 1998 the applicant appealed against this decision. He stated that he never received any decision on this appeal. The applicant informed the Chamber that the eviction had been scheduled for 30 October 1998. The applicant has not informed the Chamber of whether he still occupies the apartment.

D. CH/98/1286 Spase Mrđa v. Republika Srpska

6. The applicant occupied an apartment located at Kralja Aleksandra 41a in Prijedor. On 29 October 1992, he was allocated the apartment by a decision of the holder of the allocation right over it. This decision was stated to be a temporary one, pending any final allocation by the holder of the allocation right over the apartment. On 28 August 1996, the Prijedor Municipal Secretariat for Urbanism and Housing-Communal Affairs recorded the apartment as being abandoned, while noting the fact of the applicant’s residence there. On 9 October 1997, the Commission in Prijedor allocated the apartment to a refugee from Zagreb in Croatia. On 20 November 1998, the applicant informed the Registry of the Chamber that his eviction from the apartment had been scheduled for 27 November 1998. The applicant has not informed the Chamber of whether he still occupies the

apartment.

E. CH/98/1392 Nedeljko Gračanin v. Republika Srpska

7. The applicant occupied an apartment located at Kolubarska 8 in Banja Luka. On 25 August 1994, he was allocated the apartment for a one-year period by a decision of the Banja Luka Municipal Sector for Housing and Administrative Affairs. The applicant claimed that on 7 September 1997 he entered into a contract for the use of the apartment with the owner of the apartment, a private individual. He has not supplied a copy of this contract to the Chamber and did not seek to have it validated by any official authority. On 30 October 1998 the Commission declared the applicant to be an illegal occupant of the apartment and ordered him to vacate it within three days under threat of forcible eviction. The applicant stated that he appealed against this decision but that he never received any decision. The applicant has not informed the Chamber of whether he still occupies the apartment.

F. CH/98/1398 Mirjana Kuridža v. Republika Srpska

8. The applicant occupied an apartment located at Kozarska 36 in Prijedor. On 1 April 1993, she entered into possession of the apartment with the consent of the holder of the allocation right over it. On 11 November 1993, the applicant was formally allocated the apartment on a temporary basis, without any period being specified. According to the applicant, the holder of the allocation right over the apartment had sought to have her evicted from it, but terminated these efforts on 26 November 1997.

9. On 22 October 1998, the Commission declared the applicant to be an illegal occupant of the apartment and ordered her to vacate it within three days under threat of forcible eviction. The applicant informed the Chamber that the eviction had been scheduled for 13 November 1998. The applicant has not informed the Chamber of whether she initiated any proceedings against the decision of the Commission nor of whether she still occupies the apartment.

II. COMPLAINTS

10. The applicants in Case Nos. CH/98/926, CH/98/1246, CH/98/1278, CH/98/1392 and CH/98/1398 make general unspecified allegations of violations of their human rights. The applicant in Case No. CH/98/1286 alleges violations of his rights to freedom from inhuman and degrading treatment, to a fair hearing before an independent and impartial tribunal, to respect for his private and family life, to participate in privatization and to respect for his property.

III. PROCEEDINGS BEFORE THE CHAMBER

11. The applications were introduced and registered between 8 September and 11 November 1998.

12. All of the applicants requested that the Chamber order the respondent Party as a provisional measure to take all necessary steps to prevent their eviction from the properties they occupied.

13. All of the requests were refused by either the President or Vice-President of the Chamber.

14. Between 22 September 1998 and 26 January 1999 the Chamber wrote to the applicants in each of the cases, informing them that their requests for provisional measures had been refused and asking them to inform the Chamber within a specified period of whether they wished to proceed with their applications before it. The Chamber did not receive any reply to any of these letters.

15. Between 16 and 18 March 1999, the Chamber wrote to all of the applicants again by registered post. In these letters, they were asked to reply to the Chamber's previous letter to them. Copies of the relevant letters were enclosed. The second letter stated that if they did not reply to this letter, the Chamber might conclude that they no longer wished to proceed with their applications and strike them from its list under Article VIII(3)(a) or (c) of the Agreement. The Registry has received

certificates of receipt in respect of all of these letters, signed either by the applicants themselves, by members of their family or household, or by persons residing at their addresses (in Case No. CH/98/926 a member of the applicant's immediate family received the letter; in Case No. CH/98/1246 a person residing at the address given by the applicant in his application to the Chamber received the letter; in Case No. CH/98/1278 the applicant's mother received the letter; in Case No. CH/98/1286 the applicant's wife received it and in Cases Nos. CH/98/1392 and 1398 the applicants received the letters themselves.)

16. The Chamber has not received any replies to any of these letters. Neither have any of the applicants been in contact with the Chamber since the dates of their lodging their applications (except for the applicant in Case No. CH/98/1286 – see paragraph 6 above).

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

IV. OPINION OF THE CHAMBER

18. 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.

19. In the present cases the Chamber notes that none of the applicants has replied to any of the letters sent to them by the Chamber. The Chamber has received confirmation that the applicants or persons closely related to them or residing at their addresses have received the registered letters sent to them by the Chamber between 16 and 18 March 1999 (see paragraph 15 above).

20. The Chamber notes that these letters specifically informed the applicants that if they did not reply, the Chamber might decide to strike out their cases from its list. The Chamber further notes that none of the applicants have been in contact with the Chamber since the dates of their lodging their applications (except for the applicant in Case No. CH/98/1286 – see paragraph 6 above).

21. Accordingly, the Chamber concludes that the applicants do not intend to pursue their applications before it. In these circumstances it is no longer justified to continue the examination of the cases and such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

22. 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