



DECISION TO STRIKE OUT

Case no. CH/98/961

A.Č. and D.Č

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 May 2000 with the following members present:

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

Mr. Anders MÅNSSON, 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 applicants, citizens of Bosnia and Herzegovina, are sister and brother. The first applicant lives in an apartment in Doboj over which the second applicant holds the occupancy right. On 7 August 1998 the Commission for the Accommodation of Refugees and Administration of Abandoned Property in Doboj, a department of the Ministry for Refugees and Displaced Persons, purported to annul the second applicant's occupancy right over the apartment and ordered both applicants to vacate it, under threat of forcible eviction. This decision was taken under the Law on Use of Abandoned Property ("the old law", Official Gazette of the Republika Srpska – hereinafter "OG RS" - no. 3/96). On 12 September 1998 the first applicant appealed to the Ministry against this decision. There has been no decision on this appeal to date.

2. On 19 December 1998 the Law on Cessation of Application of the Law on Use of Abandoned Property ("the new law" OG RS no. 38/98 *et al.*) came into force. Article 30 of this law, as amended, terminates *ex officio* all proceedings under the old law, other than those initiated by persons seeking to regain possession of property.

3. On 24 December 1998 the first applicant initiated proceedings against the Ministry before the Supreme Court of the Republika Srpska, due to its failure to decide upon her appeal of 12 September 1998. No decision has been issued in these proceedings to date. She still occupies the apartment.

II. COMPLAINTS

4. The applicants complain of violations of their rights to peaceful enjoyment of their possessions and to respect for their home, family and private life.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 17 September 1998 and registered on the same day. They are represented by Mr. Duško Panić, a lawyer practising in Doboj. The applicants requested that the Chamber order the Republika Srpska as a provisional measure to take all necessary steps to prevent their eviction from the apartment. On 21 September 1998 the President of the Chamber made an order in these terms.

6. On 29 October 1998 the application was transmitted to the Republika Srpska for observations on its admissibility and merits, which were not received. On 31 March 1999 the further observations of the applicants were received and transmitted to the Republika Srpska for information.

7. At its session in December 1999 the Chamber considered Article 30 of the new law and its effect on a number of cases pending before it, including the present one. It requested the Agent of the Republika Srpska to inform it of whether the relevant authorities of his Government now intended to take any further action to execute decision issued under the old law. In his reply, received on 26 January 2000, he stated that the relevant authorities of the Republika Srpska do not now conduct proceedings initiated under the old law and act in accordance with Article 30 of the new law. The reply was sent to the applicants' representative.

8. On 11 April 2000 the reply of the applicants' representative was received, in which he stated that the applicants consider the matter to be resolved and asked that the Chamber strike the case from its list.

IV. OPINION OF THE CHAMBER

9. 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.

10. The Chamber notes that the applicants' complaints related to the attempts of the Commission to evict them from the apartment. The decision of the Commission in this regard has now been put out of force *ex officio* by the new law and the Republika Srpska has indicated that, in effect, it will not seek to enforce decisions issued under the old law such as that of 7 August 1998 (see paragraph 1 above). Accordingly, there does not appear to be any possibility of further attempts being made to evict the applicants from the apartment. The applicants have confirmed that they consider the matter resolved.

11. Accordingly, the Chamber concludes that the matter has been resolved. In these circumstances it is no longer justified to continue the examination of the case. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel