



DECISION TO STRIKE OUT

Case no. CH/99/1866

Jadranka KURBALIJA

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 March 2000 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. 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 Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, occupied an apartment located at Jevrejska 101, Banja Luka. She moved into the apartment in 1995, without any formal legal decision. She claims, however, that she moved into it with the agreement of the holder of the allocation right over it, who is also her employer. On 26 November 1998 the holder of the allocation right entered into a contract with the Customs Administration of the Republika Srpska, under which that body is entitled to possession of the apartment.

2. After proceedings had been initiated by the Customs Administration, the relevant authority of the municipality declared the applicant to be an illegal occupant and ordered her to vacate the apartment. Her eviction has been scheduled for a number of dates, the latest of which known to the Chamber was 14 April 1999. The applicant has not provided any evidence that she appealed against the decision ordering her eviction, nor has she informed the Chamber of whether she still occupies the apartment. She has not contacted the Chamber since April 1999.

II. COMPLAINTS

3. The applicant claims that her rights as guaranteed by Articles 8, 13 and 14 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 12 March 1999 and registered on the same day. The applicant requested the Chamber to order the respondent Party as a provisional measure to take all necessary action to prevent her eviction. On 19 April 1999 the President of the Second Panel refused this request and the applicant was informed of this orally. On 26 August 1999 the Chamber wrote to the applicant (at the address indicated in her application) requesting her to inform it of whether there had been any developments concerning her application. No reply was received to this letter.

5. On 5 October 1999 the Chamber wrote to the applicant by registered post (at the address indicated in her application), asking her to reply to its letter of 26 August 1999 and enclosing a copy of that letter. She was informed that if she did not reply within three weeks, the Chamber might conclude that she no longer wished to proceed with her application and decide to strike it out of its list. On 6 October 1999 the Chamber received a certificate of receipt of the letter of 5 October 1999, signed by the applicant's husband.

IV. OPINION OF THE CHAMBER

6. 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.

7. The Chamber notes that the applicant has not replied to any of the letters it has sent to her. It has received confirmation that her husband, resident at the same address as her, received its letter of 5 October 1999. This letter specifically informed her that if she did not reply to it the Chamber might decide that she no longer wished to proceed with her application. She has not been in contact with the Chamber since April 1999, eleven months ago.

8. Accordingly, the Chamber concludes that the applicant does not intend to pursue her application. In these circumstances it is no longer justified to continue the examination of the case. Moreover, such an outcome would not seem to be inconsistent with the objective of respect for human rights.

V. CONCLUSION

9. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel