



DECISION TO STRIKE OUT

Case no. CH/99/1944

M.P. POLJOPRIVREDA PRIJEDOR

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 Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a company registered in the Republika Srpska. In May 1994 it entered into a lease agreement with the local Public Security Centre (police) in Prijedor, under which the police were entitled to occupy certain premises owned by the applicant. The applicant claims that it entered into the agreement under duress.

2. The applicant initiated proceedings before the Court of First Instance in Prijedor seeking to regain possession of the premises. On 6 March 1998 the court issued a decision in the applicant's favour. The appeal of the police was refused on 26 November 1998 and accordingly the decision of 6 March 1998 is fully enforceable. The applicant has not been able to ensure execution of the decision to date, however.

II. COMPLAINTS

3. The applicant complains that its right to peaceful enjoyment of its possessions has been violated.

III. PROCEEDINGS

4. The application was introduced to the Chamber on 8 June 1999 and registered on the same day. On 7 January 1998 the applicant had introduced an application concerning the same matter to the Office of the Human Rights Ombudsperson for Bosnia and Herzegovina. It was registered on 9 January 1998 under application no. (B) 413/98.

5. On 21 September 1999 the application addressed to the Chamber was transmitted to the respondent Party for observations on its admissibility and merits. These observations were received on 10 January 2000. On 7 February 2000 the applicant's written statement in reply was received. On 14 February 2000 the applicant stated, in a letter to the Ombudsperson, that it wished to proceed with its application before the Ombudsperson and to withdraw its application before the Chamber.

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 stated that it wishes to proceed with its application before the Ombudsperson, rather than before the Chamber. Accordingly, the Chamber concludes that, 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

8. 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