



DECISION TO STRIKE OUT

Case no. CH/99/1975

Bore RAKOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 June 2002 with the following members present:

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

Mr. Ulrich GARMS, 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)(a) of the Agreement as well as Rule 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. This case concerns the attempts of the applicant to prevent his eviction from an apartment situated in Banja Luka. He has entered into possession of the apartment in 1997 upon the oral agreement with the holder of the allocation right, but he has never concluded any contract which would legitimise this situation. In July 1997 the holder of the allocation right allocated the apartment to a third person, who entered into a contract on use of the apartment.

II. COMPLAINTS

2. The applicant complains about humiliating proceedings and about violations of his right to family life and home and right to a fair hearing in civil proceedings.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was received and registered by the Chamber on 15 July 1999. The applicant requested twice that the Chamber order the respondent Party, as a provisional measure, to take all necessary steps to prevent his eviction from the apartment. On 23 July 1999 and 24 March 2000 the President of the First Panel refused these requests.

4. On 18 May 2000 the applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary steps to prevent the holder of the allocation right to dispose of this apartment. On 19 May 2000 the President of the First Panel refused this request.

5. On 19 May 2000 the applicant was informed of the denial of his third request for provisional measures and requested, if he wished to proceed with his application under these circumstances, to provide certain additional information to the Chamber. He was also notified that if he did not reply within one month, the Chamber might conclude that he no longer wished to proceed with his application and decide to strike it out. No reply was received to this letter.

6. The Chamber sent reminder letters to the applicant on 19 July 2000 and 26 September 2000. On 29 September 2000 the Chamber received a certificate of delivery of its latest letter, signed by a person residing at the applicant's address. No reply was received to this letter either.

IV. OPINION OF THE CHAMBER

7. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that (a) the applicant does not intend to pursue his application; ... provided that such a result is consistent with the objective of respect for human rights."

8. The Chamber notes that the applicant has not replied to the letters it sent to him. The Chamber further notes that these letters specifically informed the applicant that, if he did not reply, the Chamber would assume that he did not wish to proceed with his application. The Chamber finds that the applicant does not intend to pursue the application. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the application.

V. CONCLUSION

9. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel