



DECISION TO STRIKE OUT

Case no. CH/99/2400

I.Š.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 October 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Peter KEMPEES, 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, a citizen of Bosnia and Herzegovina of Croat descent, is the holder of the occupancy right over an apartment located at Kordunaška street 16/14 in Banja Luka (“apartment 1”). On 20 August 1993 the holder of the allocation right over the apartment ordered him to vacate it and allocated him another, smaller, apartment (“apartment 2”). The applicant vacated apartment 1 and thereafter occupied apartment 2.

2. On 26 February 1999, the pre-war occupant of apartment 2, applied to the Ministry for Refugees and Displaced Persons to regain possession of it. On 4 October 1999 the Ministry issued a decision confirming that person as the occupancy right holder over apartment 2 and entitling him to regain possession of it. It also ordered the applicant to vacate apartment 2.

3. On 30 June 1999 the applicant applied to the Ministry to regain possession of apartment 1. The Ministry issued a decision in these terms and on 4 February 2000 the second instance organ of the Ministry refused the appeal of the current occupant of apartment 1. The eviction of the current occupant of apartment 1 was scheduled for 7 July 2000. As the previous occupant had vacated it, the applicant regained possession of the apartment on that date and vacated apartment 2, thus enabling the pre-war occupant of that apartment to regain possession of it.

II. COMPLAINTS

4. The applicant complained in general of the attempts to evict him from apartment 2 and of his inability to regain possession of apartment 1.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 28 October 1999 and registered on the same day.

6. On 23 March 2000 the application was transmitted to the Republika Srpska for observations on its admissibility and merits, which were received on 1 June 2000. On 16 July 2000 the Republika Srpska informed the Chamber that the applicant had regained possession of apartment 2 on 7 July 2000. On 15 August 2000 the applicant confirmed this and stated that he considered the matter to be resolved.

IV. OPINION OF THE CHAMBER

7. 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.

8. The Chamber notes that the matters the applicant complained of have been resolved, as he has managed to regain possession of the apartment he occupied before the war.

9. 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

10. For these reasons, the Chamber, unanimously

STRIKES OUT THE APPLICATION.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel