



DECISION TO STRIKE OUT THE APPLICATION

DELIVERED IN WRITING ON 22 JULY 1998

in

CASE No. CH/97/36

Jadranka BUJ

against

the federation of Bosnia and Herzegovina

The Human Rights Chamber for Bosnia and Herzegovina, sitting in a Plenary session on 14 July 1998 with the following Members present:

Michèle PICARD, President
Manfred NOWAK, Vice President
Dietrich RAUSCHNING
Hasan BALIĆ
Rona AYBAY
Vlatko MARKOTIĆ
Želimir JUKA
Jacob MÖLLER
Mehmed DEKOVIĆ
Giovanni GRASSO
Miodrag PAJIĆ
Vitomir POPOVIĆ
Viktor MASENKO-MAVI
Andrew GROTRIAN

Peter KEMPEES, Registrar
Olga KAPIĆ, Deputy Registrar

Having considered the application by Jadranka Buj referred to the Chamber on 15 January 1997 by the Human Rights Ombudsperson for Bosnia and Herzegovina under Article V paragraph 5 of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina (the "Agreement") and registered on 7 March 1997 under Case No. CH/97/36;

Adopted the following Decision striking out the application under Article VIII paragraph 3 (a) and Article XI of the Human Rights Agreement set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina and Rules 52 and 55 of its Rules of Procedure.

I. FACTS

A. Particular Circumstances of the Case

1. The facts are based on the application and appended documents as well as subsequent submissions by the applicant and respondent Party and can be summarised as set out below:
2. The applicant possesses the occupancy right over an apartment at Ljubljanska 16-a in Grbavica. Due to the outbreak of hostilities, she left her apartment to live with her mother in Skenderija. In 1994, after being seriously wounded by a sniper, she left Sarajevo to receive medical treatment in Croatia, where she remained with her son until March 1996. She then returned to Sarajevo and obtained permission from the relevant authority to re-enter her apartment. The applicant subsequently returned to Croatia for a brief period, leaving her neighbour in control of her apartment. Upon her return to Sarajevo in June 1996, she discovered that a Mr. Emin Čustović had illegally moved into her apartment by taking the key from her neighbour by force. On 8 October 1996, the applicant was issued a certificate granting her the right to return to the apartment, but the City Secretariat for Housing Affairs issued a decision in favour of Mr. Čustović. This decision was based on the Law on Abandoned Apartments, which at the time was no longer applicable because the war had finished.
3. The applicant applied to the Federation Ombudsmen for their assistance in seeking to regain possession of the apartment. The Federation Ombudsmen referred the case to the Human Rights Ombudsperson for Bosnia and Herzegovina on 18 December 1996, who in turn referred the case to the Chamber on 15 January 1997.
4. The Federation Ombudsmen then notified the Chamber on 25 August 1997 that the applicant had regained possession of the apartment on 8 July 1997 due to a decision made by the respondent party. The applicant withdrew her application before the Ombudsmen of the Federation, who in turn requested that the application before the Chamber be withdrawn in accordance with Article VIII(3) of the Agreement.

B. Relevant Legislation

5. The Law on Abandoned Apartments enabled the City Secretariat for Housing Affairs to declare apartments abandoned and allocate them for temporary use during the war. The Declaration of the Communal Civil Commission, however, suspended the City Secretariat's competence to make such declarations and allocations on 16 March 1996, several months before the City Secretariat declared the applicant's apartment abandoned.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The Human Rights Ombudsperson for Bosnia and Herzegovina referred the application to the Chamber on 15 January 1997, after receiving the application from the Federation Ombudsmen

III. COMPLAINTS

7. The applicant alleged a violation of her rights as guaranteed by Article 8 (right to respect for home) and Article 13 (right to an effective remedy) of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("Convention").

IV. SUMMARY OF THE SUBMISSIONS OF THE PARTIES

8. The Federation Ombudsmen notified the Chamber on 25 August 1997 that the applicant had regained possession of the apartment on 8 July 1997 due to a decision made by the respondent Party. The applicant withdrew her application before the Federation Ombudsmen, who in turn requested that the application before the Chamber be withdrawn in accordance with Article VIII (3)(a) of the Agreement.

V. OPINION OF THE CHAMBER

9. Article VIII (3) (a) of the Agreement states, in relevant part, as follows:

“The Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that the applicant does not intend to pursue his application...provided that such result is consistent with the objective of respect for human rights.”

10. The applicant withdrew her application before the Ombudsmen of the Federation, who in turn requested that the application before the Chamber be withdrawn in accordance with Article VIII (3) (a) of the Agreement. The Chamber therefore considers it consistent with the objective of respect for human rights to strike out the application.

VI. CONCLUSIONS

11. For the above reasons the Chamber, unanimously,

DECIDES TO STRIKE OUT THE APPLICATION.

(signed) Peter KEMPEES
Registrar of the Chamber

(signed) Michèle PICARD
President of the Chamber