



DECISION TO STRIKE OUT

Case no. CH/99/1739

Sidika KORIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 October 1999 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. 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 widowed pensioner and has an occupancy right over an apartment in Hadžići at Hadžali 17H/2. It had been devastated during the war and was later allegedly occupied by “squatters”. The applicant took up temporary residence in an apartment in Skopljanska 11, Novo Sarajevo, on the basis of a provisional authorisation of the Municipal Secretariat for Housing Affairs.

2. On 9 February 1998 the Municipality of Novo Sarajevo ruled that the applicant had no legal basis for using the Sarajevo apartment. A second administrative instance upheld this decision on 25 May 1998. The applicant could not afford to pay the court fee advance of approximately 100 DEM to institute an administrative dispute before the Cantonal Court of Sarajevo.

3. By a decision of 1 July 1998, the Municipality announced that the applicant would be forcefully evicted. On 11 February 1999, it issued a procedural decision declaring the applicant to be an illegal occupant of the Sarajevo apartment and announcing that she would be evicted. On 15 March 1999, after two unsuccessful eviction attempts by municipal officials, the applicant was notified that her eviction from the apartment was scheduled for 19 March 1999.

4. The applicant was prepared to vacate the Sarajevo apartment when the squatters had left the Hadžići apartment and it would be fit to live in. A report of the Public Housing Company “Sarajevostan” dated 12 March 1999 noted that the apartment – though not occupied by unauthorised persons anymore – was inhabitable and needed reconstruction. At the time of the scheduled eviction, the applicant had been granted a donation by Caritas Switzerland to repair the apartment. Therefore, on 18 and 19 March 1999 the Cantonal Ministry for Refugees and Displaced Persons requested the Municipality to postpone the scheduled eviction of the applicant. Following that, the eviction order was suspended until further notice.

II. COMPLAINTS

5. The applicant alleged that the conduct of the Municipality violated her right to a home.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 18 March 1999 and registered on the same day. The applicant requested the Chamber to order a provisional measure suspending her eviction from the Sarajevo apartment in order to give her time to have the apartment repaired and to return to it.

7. On 23 March 1999 the President of the First Panel issued a provisional measure ordering the Federation of Bosnia and Herzegovina as respondent Party to prevent the taking of any steps to evict the applicant from the Sarajevo apartment. Moreover, the application and attached documents were transmitted to the respondent Party which sent their observations on 26 April 1999

8. The applicant submitted additional documentation on the donation by Caritas Switzerland and the status of reconstruction of the Hadžići apartment on 6 April 1999 and 27 May 1999. On 12 July 1999 she notified the Chamber by telephone that she had re-entered the apartment in Hadžići which had been reconstructed. She thanked the Chamber for having issued the provisional measure.

9. By a letter of 19 July 1999 the Chamber asked the applicant whether she agreed to her application being struck out from the Chamber’s case-list. The applicant was informed that if she failed to reply within the given time-limit of one month, the Chamber would conclude that she did not intend to pursue her application and would decide to strike out the case. No reply has been received to date.

IV. OPINION OF THE CHAMBER

10. 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.

11. In the present case the applicant informed the Chamber by telephone that she had moved back to her own apartment which had been reconstructed. She indicated orally that she considered her proceedings before the Chamber to be terminated. Further, she did not reply to the Chamber's letter of 19 July 1999.

12. Accordingly, the Chamber concludes that the applicant does not intend to pursue her application. Moreover, it appears that the matter initially complained of has been resolved. In these circumstances it is no longer justified to continue the examination of the case. Such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel