



DECISION TO STRIKE OUT

Case no. CH/98/1355

Drago KOVAČEVIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 December 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. On 13 February 1992 he bought from the Yugoslav National Army ("the JNA") the apartment he was occupying in Sarajevo, Ulica Lenjinova (now Grbavička) 8a. A decree with force of law, issued on 3 February 1995 by the Presidency of the Republic of Bosnia and Herzegovina, ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments from the JNA. Legislation passed shortly after the General Framework Agreement came into force on 14 December 1995 annulled the purchase contract.

2. On 24 November 1997 the applicant introduced an application to the Office of the Human Rights Ombudsperson for Bosnia and Herzegovina ("the Ombudsperson"). It was registered the same day under application no. 993/97.

II. COMPLAINTS

3. The applicant complains that the passing of legislation adjourning all proceedings to register the purchase contract and the subsequent annulment of the contract violate his rights to access to court, to an effective remedy against violations of his human rights and to peaceful enjoyment of his possessions, protected by Articles 6 and 13 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention respectively.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced to the Chamber on 14 December 1998 and registered on the same day.

5. On 19 October 1999 the Ombudsperson and the Chamber advised the applicant that it was not possible for both institutions to deal with his case and invited him to submit a statement on whether he wished the Chamber or the Ombudsperson to process his case. On 7 November 1999 the applicant informed the Ombudsperson that he intended to pursue his application before her Office. On 17 November 1999 the Ombudsperson forwarded the applicant's statement to 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 the applicant does not intend to pursue his application or that for any other reason established by the Chamber, it is no longer justified to continue the examination. However, a decision to strike out an application must be consistent with the objective of respect for human rights.

7. According to the applicant's letter to the Ombudsperson, he no longer wishes to pursue the application before the Chamber.

8. Under the above circumstances, the Chamber does not find it inconsistent with the objective of respect for human rights to strike out the application.

V. CONCLUSION

9. 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