



DECISION TO STRIKE OUT

Case no. CH/99/1960

Fahira DŽANIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 February 2000 with the following members present:

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

Mr. Anders MÅNSON, 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 Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina of Bosniak descent. She claims that, during 1996, P.P. moved with his family into one floor of her house by forceful means. P.P. obtained a decision issued by the Ministry for Refugees and Displaced Persons on 6 September 1996 granting him the right to use this part of the applicant's property. On 8 May 1999 the Court of First Instance issued a decision declaring itself incompetent *ratione materiae* to decide on the applicant's claim to regain possession of her property. On 26 September 1999 the Regional Court in Banja Luka abrogated the above mentioned decision, and sent the case back to the Court of First Instance for reexamination. There is no information, however, if any decision has been issued by the Court of First Instance until the present time. On 23 July 1999 the Ministry for Refugees and Displaced Persons issued a decision terminating P.P.'s right to occupy the property.

II. COMPLAINTS

2. The applicant claims that the following rights have been violated: the right to peaceful enjoyment of property, the right to fair trial and the right to freedom from inhuman treatment. The applicant also complains of the behavior of P.P, claiming that he kept insulting her because of her Bosniak origin.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was received and registered by the Chamber on 29 June 1999.

4. The applicant also submitted an application concerning the same matter to the office of the Human Rights Ombudsperson for Bosnia and Herzegovina. On 14 December 1999 the Chamber and the Ombudsperson sent a joint letter to the applicant requesting her to state whether she wanted to continue the proceedings before the Chamber or the Ombudsperson. On 28 December 1999 the applicant replied that she wished to continue the proceedings before the Ombudsperson.

IV. OPINION OF THE CHAMBER

5. 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.

6. In the present case, the Chamber notes that the applicant wishes to continue her proceedings before the Ombudsperson. Accordingly, the Chamber concludes that the applicant does not intend to pursue her application before the Chamber. 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

7. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel