



DECISION TO STRIKE OUT

Case no. CH/98/194

R. Đ.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

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

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 Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. He was an occupancy right holder over an apartment in Sarajevo. He temporarily left it in May 1992 and was then, due to the hostilities, unable to return. Instead, he was granted temporary permission – until April 1996 – to use an apartment in Grbavica. On 29 September 1994 the first apartment was declared temporarily abandoned and allocated to another person for temporary use. By a decision of 22 June 1998 the Cantonal Administration for Housing Affairs in Sarajevo entitled the applicant to repossess that apartment. However, the decision was annulled on 8 February 1999 upon the temporary user's appeal. On 23 June 1999 the Cantonal Administration again decided to allow the applicant to re-enter the apartment. Subsequently, the applicant requested that the temporary user be evicted and, on 19 October 1999, the applicant entered into possession of the apartment.

II. COMPLAINTS

2. The applicant complained of his inability to return to his apartment. He invokes Articles 6 and 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was referred to the Chamber by the Human Rights Ombudsperson for Bosnia and Herzegovina on 17 February 1998 and registered on 6 March 1998. On 13 May 1998 the Chamber decided to transmit it to the respondent Party, which submitted observations on 29 June 1998. The applicant replied on 24 July 1998. On 25 August 1998, upon the Chamber's invitation, the Ombudsperson sent observations on the parties' submissions. Further observations were received from the respondent Party on 4 June 1999.

4. On 20 October 1999 the applicant informed the Chamber that he had re-entered his apartment and thus wished that the proceedings in the case be terminated. However, on 17 February 2000 the applicant told the Chamber that he wished to introduce a claim for compensation against the respondent Party as, upon his return, he had found that his apartment had been devastated.

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. The Chamber notes that the applicant has re-entered his apartment and has expressed the wish to have the proceedings in the case terminated. Moreover, the matter originally complained of has been resolved. As to the compensation claim submitted on 17 February 2000, the Chamber recalls that it can only grant compensation if it finds a violation of the applicant's rights for which the respondent Party can be held responsible. In the present situation, there is no evidence of such a violation. Thus, the Chamber does not take the applicant's belated claim into consideration. For these reasons, it finds that it is no longer justified to continue the examination of the case. Moreover, such a result 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.

Anders MÅNSSON
Registrar of the Chamber

Giovanni GRASSO
President of the Second Panel