



DECISION TO STRIKE OUT

Case no. CH/98/1241

Besima ŠERANIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 March 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ

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, a citizen of Bosnia and Herzegovina, is the holder of an occupancy right over an apartment in Banja Luka. She vacated the apartment in March 1994, having been ordered to do so by a decision of the Municipality of Banja Luka dated 5 March 1994.

2. The applicant initiated court proceedings to regain possession of the apartment. On 9 February 1999 the Court of First Instance in Banja Luka decided in the applicant's favour, declaring the order of the municipality of 5 March 1994 to be illegal. An appeal by the then occupant of the apartment against this decision was rejected by the Regional Court on 15 June 1999 and the first instance decision was confirmed. On 5 July 1999 the applicant sought execution of this decision, which, on 9 July 1999, the court duly ordered.

3. The applicant also initiated administrative proceedings against the decision of the municipality. However, there has been no final decision in these proceedings to date. On 29 September 1999 the decision of the Court of First Instance of 9 February 1999 was executed and the applicant regained possession of her apartment.

II. COMPLAINTS

4. The applicant claimed that her right to occupy the apartment in question had been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 20 October 1998 and registered on the same day. On 22 July 1999 it was transmitted to the respondent Party for observations on its admissibility and merits. These observations were received on 22 September 1999 and sent to the applicant the next day. On 14 October 1999 and 9 February 2000 the Chamber sent letters to the applicant requesting certain further information regarding her application. The applicant's reply was received on 15 February 2000. She stated that she had regained possession of the apartment.

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 (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.

7. The applicant's complaints solely concerned her inability to regain possession of the apartment over which she holds the occupancy right. She has now regained possession of that apartment, as the decision of the Court of First Instance of 9 February 1999 has been enforced. The Chamber therefore considers the matter to have been resolved. 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

8. 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