DECISION TO STRIKE OUT

Case no. CH/98/850

L.P.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 October 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 POPOVIC
Mr. Mato TADIĆ

Mr. Peter KEMPEES, 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 the occupancy right holder over an apartment in Milana Preloga No. 8/V, apartment No. 9, Sarajevo, where she lived with her son before the war. The applicant's son was wounded during the war, and on 15 August 1993 UNHCR transferred him to Italy for medical treatment. The administrative organ competent for housing affairs in Novi Grad gave him a certificate declaring that the apartment could not be considered as abandoned because he had to leave the country for this treatment. However, a third person illegally moved into the apartment at Milana Preloga after the applicant's son had left it. The applicant therefore had to move in with her sister.

2.   On 23 April 1996 the applicant submitted an application to the administrative organ competent for housing affairs in Novi Grad in order to be enabled to return to her apartment. However, in a decision issued on 26 September 1997 this organ stated that her application had not been submitted in time. The applicant appealed against the decision on an unspecified date without receiving any answer.

3.   On 8 August 1998 the applicant was reinstated in her apartment following the intervention of the Office of the Human Rights Ombudsperson for Bosnia and Herzegovina.

II.   COMPLAINT

4.   The applicant complains of violations of her right to property.

III.   PROCEEDINGS BEFORE THE CHAMBER

5.   The application was filed with the Chamber on 21 October 1997 and registered on the same day. The applicant has also submitted an application concerning the same matter to the Human Rights Ombudsperson for Bosnia and Herzegovina.

6.   On 3 September 1998 a letter was sent to the applicant by which she was informed that the Chamber will not normally consider cases that have already been brought before the Human Rights Ombudsperson. For this reason, it was pointed out that the Chamber was likely to discontinue consideration of the case. The Chamber asked the applicant if, in these circumstances, she wished to proceed with the application. The applicant did not respond.

IV.   OPINION OF THE CHAMBER

7.   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.

8.   The Chamber notes that the applicant did not reply to the Chamber's letter of 3 September 1998. She has not been in contact with the Chamber since she introduced her application 3 years ago. Moreover, the applicant was reinstated into her apartment. In these circumstances, the Chamber finds that it is no longer justified to continue the examination of the present case. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V.   CONCLUSION

9.   For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)   (signed)
Peter KEMPEES   Giovanni GRASSO
Registrar of the Chamber   President of the Second Panel