



**DECISION ON ADMISSIBILITY
AND
TO STRIKE OUT**

CASE No. CH/98/403

Ljunturije SEFEDINI

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 3 July 2001 with the following members present:

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

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) and Article VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

i. INTRODUCTION

1. The application was introduced on 5 March 1998 and registered on 10 April 1998.
2. The applicant is the occupancy right holder of an apartment located at Oktobarske Revolucije St. No. 15 in Tuzla. It was allocated to the family in 1983 by the Yugoslav National Army. According to the applicant the applicant's late husband entered into a purchase contract over this apartment before the outbreak of the war. The applicant alleges in her letter of 22 March 2001 that her husband paid in advance 320 000 SFRY Dinars towards the purchase of the apartment and she submitted a certificate of contributions to the housing fund of 101.715,00 SFRY Dinars. However, the husband did not receive a copy of the purchase contract. He also never managed to pay the full price of the apartment. The applicant could provide any proof to substantiate that a contract had been concluded. **(please note: previous sentence is changed and now shorter) The respondent Party furthermore submitted information that the Command of the Second Corps of the Federal Army of did not make any purchase contract in the case of Nasuf Sefedini.** In 1992 the applicant and her two daughters fled from the apartment due to the war. The apartment was declared temporarily abandoned in 1994 after the death of the applicant's husband on 23 February 1994 in shellfire. In 1996 the apartment was declared permanently abandoned and reallocated to a temporary occupant who still occupied the apartment at the time of the application before the Chamber.
3. The applicant initiated proceedings to regain her apartment in December 1997. The applicant informed the Chamber on 22 March 2001 that by a procedural decision of the Municipality of Tuzla of 27 March 2000 the applicant was reinstated into her apartment. She returned to her apartment on 20 November 2000 and now lives in it together with her two daughters.
4. The applicant was informed by the Federal Ministry of Defence on 13 February 2001 that if she wanted to purchase the apartment she could conclude a new contract after two years from the date of her reinstatement. As she had no proofs for the purchase contract or of any payment made so far she would have to pay the full price.
5. The applicant complained in her application that she wanted to be reinstated into her apartment and that the Chamber should protect and affirm her rights as the owner through the pre-war purchase contract.

ii. OPINION OF THE CHAMBER

1. in respect to the applicant's request for reinstatement into her apartment

6. Having regard to Article VIII(3) of the Agreement, the Chamber finds that the matter raised in the application in regard to the reinstatement of the applicant into her apartment has been resolved in view of the fact that she regained possession of the apartment on 20 November 2000 following the procedural decision of the Municipality of Tuzla of 27 March 2000. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of this issue to be continued. It follows that this part of the application must be struck out of the list.

2. in respect to the applicant's request to be recognized as the owner of the apartment

7. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Chamber finds that the remainder of the application, that is the claim of the applicant to be recognized as the owner of the apartment under a pre-war purchase contract, has not been substantiated. The applicant could not show that such a contract existed, nor could she provide any proof of payment made under it. It follows that the application is manifestly ill-founded and must be rejected, in accordance with Article VIII(2)(c) of the Agreement.

iii. **CONCLUSION**

8. For these reasons, the Chamber, unanimously (**deletion**),

STRIKES THE APPLICATION OUT, in so far as it concerns the applicant's claim to be reinstated into her apartment

AND

DECLARES THE REMAINDER OF THE APPLICATION INADMISSIBLE.

(signed)
Olga Kapić
Deputy Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel