



DECISION TO STRIKE OUT

Case no. CH/99/2068

Mahmut MAŠIĆ and 8 others

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2002 with the following members present:

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

Mr. Ulrich GARMS, 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)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The case concerns the applicants' requests for the protection of their property rights over apartments in the building no. 12 on Danijela Ozme Street in Sarajevo. This building is registered on the list of buildings with cultural and historical significance for the City of Sarajevo. Following shelling on 28 May 1992, the building burned down. In their application, the applicants seek to prevent further demolition of the building.

II. PROCEEDINGS BEFORE THE CHAMBER

2. The application forms were introduced on 19 April 1999 by Mr. Mašić and 8 other applicants, containing similar information and requests. The Chamber registered these applications under one case number on the same day. The applicants are represented by Ms. Senka Nožica, an advocate practising in Sarajevo.

3. The applicants asked the Chamber to order the Municipal Centar Sarajevo, as a provisional measure, not to issue a decision to demolish the building. The applicants alleged that their ownership rights or occupancy rights, respectively, as well as their rights to return to their apartments, will be violated if the building is demolished. On 14 May 1999, the President of the Second Panel decided to issue the provisional measure requested, thereby ordering the Federation "to take all necessary action to ensure that the building no. 12 in Danijela Ozme Street in Sarajevo is not demolished by any institution, company or person, whether public or private". On 24 May 1999, the Agent of the Federation sent a letter to the Canton Sarajevo Municipal Center requesting it to comply with the Chamber's order for provisional measures.

4. On 21 June 1999 the respondent Party submitted its written observations on the admissibility and merits of the case. On 24 August 1999 the applicants responded to the respondent Party's written observations.

5. On 8 November 2001, the respondent Party informed the Chamber that on 12 January 2000 the Municipality Centar, as an investor, and the Construction Enterprise "Bosna", as a contractor, concluded a contract for repair work on the building. The respondent Party proposed that the Chamber withdraw its order for provisional measures. In its last observations of 11 September 2002, the respondent Party informed the Chamber that construction work to repair the building had been completed. The respondent Party repeated its proposal for the Chamber to withdraw its order for provisional measures.

6. The Chamber transmitted the respondent Party's observations to the applicants' representative. On 17 September 2002, the Chamber further asked the applicants to inform it whether they intended to pursue their applications. According to the registered return receipts, the applicants' representative received the Chamber's letters, but she did not respond.

III. OPINION OF THE CHAMBER

7. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that... (b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights."

8. Considering that construction work to repair the building has been completed, and that the building will not be demolished, which was the applicants' request, the Chamber finds that the matter raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the application.

IV. CONCLUSION

9. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION and

WITHDRAWS ITS ORDER FOR PROVISIONAL MEASURES WITH IMMEDIATE EFFECT.

(signed)
Ulrich Garms
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel