



DECISION TO STRIKE OUT

Case no. CH/98/1065

Milena DOSTAL - TORBICA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 2003 with the following members present:

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

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application was introduced on 16 November 1998. The applicant's representative is Mr. Evgenije Sorokin.
2. The applicant complained of her inability to repair and repossess her pre-war apartment located at Grbavička no. 2A/3, in Sarajevo.
3. After submitting her application, the applicant never again addressed the Chamber. On 23 May 2002 the Chamber sent a letter to the applicant's representative, by registered mail, seeking updated information. The Chamber received the signed delivery receipt, but it received no answer to its letter. On 11 June 2002 the Registry of the Chamber placed a telephone call to Mr. Sorokin, and he responded that the applicant had died.
4. On 11 July 2002 the Chamber sent a letter to the representative asking if there are any heirs of the applicant who would like to pursue the application before the Chamber. On 22 July 2002 Mr. Sorokin answered that the applicant had two children, but they did not live together with her. He inquired whether they could realise a right to the apartment in question.
5. On 26 July 2002, the Chamber sent a letter to the representative asking him to inform it if the applicant's heirs would like to pursue their mother's application. The letter specifically warned that if nobody responded to it, the Chamber might decide to strike out the application. The Chamber received the signed delivery receipt for this letter; however, no one responded to the Chamber.

II. OPINION OF THE CHAMBER

6. 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 (a) the applicant does not intend to pursue his/her application; ... provided that such result is consistent with the objective of respect for human rights."
7. The Chamber notes that the applicant has died. Never the less, the Chamber sent letters to the applicant's representative, attempting to contact the applicant's heirs and inquire whether they would like to pursue the application. The letter of 26 July 2002 specifically cautioned that the Chamber might decide to strike out the application if it did not receive a response. However, neither the applicant's representative nor her heirs have responded to the Chamber's letters. The Chamber therefore finds that the heirs do not intend to pursue the application. 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.

III. CONCLUSION

8. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel