



DECISION TO STRIKE OUT

Case no. CH/00/4039

Mehmed HADŽISELIMOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 June 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, had a contract on use for, and was the occupancy right holder over, a socially owned apartment in the municipality of Tuzla. On 15 November 1982 the Municipal Court in Tuzla issued a judgment which cancelled the applicant's contract on use and ordered his eviction. The applicant's appeals against this judgment were unsuccessful. On 29 March 1988 the First Instance Court (formerly the Municipal Court) in Tuzla again ordered his eviction. However, the court subsequently stopped the eviction procedure in order to establish whether he had adequate alternative housing. In January 2000 the applicant initiated proceedings to purchase the apartment. Around the same time it appears that the Municipality decided to carry out the eviction of the applicant.

2. On 22 May 2000 the applicant's representative informed the Chamber that the applicant had died, that the property in question had been allocated to his wife and that they wished the case before the Chamber to be withdrawn.

II. COMPLAINTS

3. The applicant complained that the first instance proceedings were not conducted in accordance with law. He also appeared to complain about his right to respect for his home.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 8 February 2000 and registered on 12 February 2000. The applicant is represented by Mr. Enver Bijedić, a lawyer from Tuzla. The applicant requested the Chamber to order a provisional measure preventing his eviction. This request was refused on 8 March 2000.

5. The Chamber then asked the applicant for further information about his current status. His representative's reply was received on 22 May 2000.

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 application. 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 Chamber notes that the applicant has died during the course of the proceedings. His representative has expressed the wish that the case be withdrawn, as the applicant's wife has been allocated the apartment in question.

8. Accordingly, the Chamber finds that the underlying matter of the application has been resolved, for which reason it is no longer justified to continue the examination of the application. Moreover, such a result 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)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel