



DECISION TO STRIKE OUT

Case no. CH/00/4698

Husein JAŠAREVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 7 July 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 POPOVIĆ
Mr. Mato TADIĆ

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 as well as Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. On 30 September 1993 he and his wife were divorced by a judgment of the Court of First Instance in Tuzla. By a procedural decision of the same court dated 11 January 1994, his former wife was solely awarded the occupancy right over their apartment located at Narodnog Fronta St. no. 3 in Tuzla. The applicant, however, did not leave the apartment.
2. The applicant appealed this decision to the Supreme Court of the Federation of Bosnia and Herzegovina, which on 3 June 1996 quashed the lower court's decision regarding the occupancy right and returned the case for renewed proceedings.
3. On 20 March 1998 the Municipal Court in Tuzla again decided that the applicant's wife was the occupancy right holder and ordered the applicant to move from the apartment. He again appealed, and on 14 May 1999 the Cantonal Court in Tuzla refused the appeal and confirmed the lower court's decision. He then filed a request for review to the Supreme Court of Federation of Bosnia and Herzegovina. On 17 February 2000 that court refused the request stating that the lower courts' decisions were taken in accordance with the law. On 19 June 1999, while the Supreme Court was considering the applicant's case, the Municipal Court in Tuzla issued a decision allowing for his eviction from the apartment.
4. On 31 May 2000 the applicant informed the Chamber that, as his case was pending before the Constitutional Court of Bosnia and Herzegovina, he no longer wished to pursue his application before the Chamber.

II. COMPLAINTS

5. The applicant complains that his rights to respect for his home and to his property have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The case was received and registered on 19 April 2000. The applicant requested as a provisional measure that his eviction from his apartment be prevented. The Chamber refused this request on 12 May 2000. The applicant then made a similar provisional measure request which the Chamber again rejected on 17 May 2000.

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. In this case, the applicant has asked to withdraw his application, preferring instead to pursue his claims before the Constitutional Court of Bosnia and Herzegovina. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application with the Chamber. In these circumstances it is no longer justified to continue the examination of the 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)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel