



DECISION TO STRIKE OUT

Case no. CH/00/4892

Selman PRAŠEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 October 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. 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) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. On 8 September 1997 a procedural decision granted the applicant permanent use of an apartment located at Ulica Fetaha Bećirbegovića br. 27 in Sarajevo. This procedural decision was issued by GP "Bosna" Company, the owner of the apartment in question. The previous occupant of the apartment had died. On 28 May 1998 the applicant concluded the contract for use of the apartment with the Housing Fund of Sarajevo City.

2. On 1 January 1993 the Novo Sarajevo Municipality had declared that same apartment permanently abandoned. The Municipality accorded temporary use of that apartment to M.A on 16 May 1997. A series of appeals of both parties ensued, the applicant attempting to achieve recognition of his permanent occupancy right and M.A. attempting to avoid eviction from the apartment.

3. On 18 November 1998 the applicant and the Bosna Company, as the owner of the apartment, filed an appeal against the second instance decision of 16 October 1998 issued by the Ministry for Urban Planning, Housing and Utility Affairs (the substance of this decision is not documented in the case file). At an unknown date, M.A. also appealed against this decision. In this administrative dispute, both the applicant and M.A. requested in separately initiated appeals that the Cantonal Court in Sarajevo quash the second instance decision. On 15 June 1999 the Cantonal Court joined the two cases and allowed the proceedings to move forward together. By December 1999 the case had still not been resolved.

4. The applicant alleges that his case file was twice lost, that when he was able to locate it some of the documents inside were in poor shape, and that the case-lawyer was not able to explain documents or decisions in the case file. He further alleges that M.A., who resided in Doboj before the war, has been able to remain the temporary occupant of the apartment due to government connections.

II. COMPLAINTS

5. The applicant did not explicitly state any specific human rights violations.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was received on 15 May 2000 and registered on 16 May 2000.

7. On 21 June 2000 the Chamber received a letter from the applicant, dated 20 June 2000, informing the Chamber that his case had been resolved and expressing the wish that his case be withdrawn.

IV. OPINION OF THE CHAMBER

8. 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.

9. In the present case the Chamber notes that the applicant has informed it that his case has been resolved to his satisfaction and that he does not intend to pursue it further. In these circumstances and with reference to Article VIII(3) of the Agreement it is no longer justified to continue the examination of the application. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

10. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel