



DECISION TO STRIKE OUT

Case no. CH/02/8971

Jelena KAZAKOV

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 November 2002 with the following members present:

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

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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The case concerns the applicant's attempts to obtain repossession of her pre-war apartment, located at ul. Ustanička 5/IV (previously ul. Džemala Bijedića no. 258/IV) in Ilidža, the Federation of Bosnia and Herzegovina (the "apartment").

2. On 8 November 1996 and 27 May 1998, the applicant submitted requests for repossession of the apartment in question. On 18 July 1998 the now so-called Administration for Housing Affairs (Uprava za stambena pitanja) of the Sarajevo Canton (the "Administration") confirmed the applicant's occupancy right over the apartment. On 12 October 1998 the applicant submitted a request for execution of that procedural decision. However, on 13 November 1999, upon the appeal of the temporary occupant of the apartment, the procedural decision was annulled by the Ministry of Housing Affairs of the Sarajevo Canton. On 15 May 2001 a new procedural decision was issued by the Administration, confirming the applicant's rights over the apartment. On 25 September 2001 the applicant submitted a request for execution of that procedural decision.

3. On 12 February 2002 the applicant submitted a request for execution of a decision by the Commission for Real Property Claims of Displaced Persons and Refugees.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 21 February 2002 and registered on same date.

5. In her application, the applicant alleges that her human rights had been violated because she was not able to repossess the apartment in question due to the annulment of the procedural decision of 18 July 1998. In addition she alleges that a new hearing before the Administration has been prolonged. The applicant requests compensation for rent she paid as subtenant and for travel expenses.

6. On 14 October 2002 the applicant, with no explanation, submitted a letter informing the Chamber that she withdraws her application with respect to repossession of her apartment, but that she would like to maintain her claim for compensation for pecuniary damages.

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 ... (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such a result is consistent with the objective of respect for human rights."

8. In view of the applicant's withdrawal of the application regarding repossession of the apartment, the Chamber finds that it is no longer justified to continue the examination of the application. The Chamber notes that the applicant has expressed her intention to pursue the application before the Chamber in regard to the compensation claim. The Chamber observes, however, that it can only award compensation if it makes a finding of a violation of the Agreement. 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.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel