



DECISION TO STRIKE OUT

Case no. CH/97/109

Jelka SUBANOVIĆ

against

**BOSNIA AND HERZEGOVINA
and
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) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 12 December 1997. The applicant complains that the respondent Parties enacted laws which retroactively annulled all contracts to purchase apartments from the former Yugoslav National Army ("JNA"). The applicant concluded such a contract on 3 April 1992. The applicant also complained that the competent organs did not permit her to repossess the apartment, which she bought under that contract.
2. By the Law on Sale of Apartments with Occupancy Right ("Official Gazette of the Federation of Bosnia and Herzegovina 27/97, 11/98, 22/99, 7/00) the Federation of Bosnia and Herzegovina enacted legislation enabling persons in the applicant's position to register their ownership of the apartments in question (Articles 39a, 39b and 39c).
3. On 15 March and 16 May 2001 the Chamber sent the applicant letters by registered mail asking her for updated information in the case.
4. On 28 May 2001 the applicant wrote to the Chamber that she had regained possession of her apartment but that she had not yet been registered as the owner of it.
5. On 31 January 2002, the Chamber sent another letter to the applicant asking her whether she had registered her ownership in the meanwhile. The letter warned the applicant that her application might be struck out if she did not respond to the letter. The applicant never responded.

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... (b) the matter has been resolved;...provided that such a result is consistent with the objective of respect for human rights."
7. Having regard to Article VIII(3) of the Agreement, the Chamber finds that the principal matter raised in the application has been resolved as the applicant has repossessed her apartment and by the new legislation she has the right to register her ownership over the disputed apartment. The Chamber finds that it is no longer justified for the Chamber to continue the examination of the application. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. Therefore, the Chamber decides to strike out the application in accordance with Article VIII(3)(b).

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