



DECISION TO STRIKE OUT

CASE No. CH/98/1250

“D.T.”

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 March 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ

Mr. Leif BERG, 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. On 28 February 1992, the applicant entered into a purchase contract with the Housing Fund of the former Yugoslav National Army regarding an apartment located in Sarajevo over which he held the occupancy right. On 20 July 1992, he left Sarajevo due to the hostilities and maltreatment he suffered due to his Serb nationality. He moved to Banja Luka, where he currently lives. On 10 May 1998, the applicant applied to the Municipality of Centar Sarajevo under the Law on the Cessation of the Application of the Law on Abandoned Apartments (SL FBiH 16/98), seeking to regain possession of his apartment. He has not regained possession of the apartment to date.

2. The applicant has applied to the Office of the Human Rights Ombudsperson for Bosnia and Herzegovina ("the Ombudsperson") and the Commission for Real Property Claims of Displaced Persons and Refugees ("the Annex 7 Commission") regarding the same matter. His applications are apparently still pending before those institutions.

II. COMPLAINT

3. The applicant complained of the failure of the authorities in the Federation to allow him to regain possession of his apartment.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 23 October 1998 and registered on the same day. The applicant requested that his identity not be disclosed to the public. On 19 November 1998, the Registry wrote to the applicant, informing him that as his application is pending before the Ombudsperson, it could not be considered by the Chamber in the absence of special circumstances justifying this. Accordingly, the applicant was asked whether he wished to withdraw his application before the Chamber. On 24 November 1998, the applicant informed the Chamber that he wished to withdraw his application to the Chamber.

IV. OPINION OF THE CHAMBER

5. 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.

6. In the present case the Chamber notes that the applicant has applied to the Ombudsperson and the Annex 7 Commission regarding the same matter. In addition, he has requested that his application to the Chamber be withdrawn. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application.

7. In these circumstances it is no longer justified to continue the examination of the case and such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

8. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel