



DECISION TO STRIKE OUT

Case no. CH/98/161

Fadil POPARA

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 6 April 2000 with the following members present:

Mr. Andrew GROTRIAN, Acting President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ

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 and Rule 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. On 3 April 1992 he bought from the Yugoslav National Army ("the JNA") the apartment he was occupying in Tuzla, Ulica Oktobarska (now Aleja Bosanskih Vladara) no. 29. A decree with force of law, issued on 3 February 1995 by the Presidency of the Republic of Bosnia and Herzegovina, ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments from the JNA. Legislation passed shortly after the General Framework Agreement came into force on 14 December 1995 annulled the purchase contract.

2. According to Article 39(a) of the Law on Amendments of the Law on Sale of Apartments with an Occupancy Right (Official Gazette of the Federation of Bosnia and Herzegovina no. 27/99), which entered into force on 6 July 1999, the Federation Ministry of Defence shall issue an order for the registration of an occupancy right holder of a JNA apartment with the responsible court if he was the occupancy right holder of an apartment at the disposal of the Federation Ministry of Defence, uses the apartment legally and if he entered into a legally binding contract on the purchase of the apartment before 6 April 1992.

3. On 18 August 1999 the Federation Ministry of Defence issued the above-mentioned order. The applicant was registered with the Municipal Court in Tuzla as owner of the apartment on 4 January 2000.

II. COMPLAINTS

4. The applicant complained that the annulment of the contract violated his right to peaceful enjoyment of his possessions, protected by Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced to the Chamber on 23 January 1998 and registered on the same day. It was transmitted to the respondent Parties for their observations on the admissibility and merits of the case on 27 May 1998. On 8 June 1998 observations from the Federation were received and transmitted, on 25 June 1998, to the applicant, who replied on 8 July 1998.

6. On 24 February 2000 the Federation informed the Chamber that the applicant had been registered as owner of the apartment with the Municipal Court in Tuzla. It asked the Chamber to strike out the application as the matter had been solved.

7. The Chamber transmitted this submission to the applicant who on 13 March 2000 confirmed that he had been registered as owner and that he considered the matter of his complaint solved.

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 the matter has been resolved. However, a decision to strike out an application must be consistent with the objective of respect for human rights.

9. The Chamber notes that the applicant has been registered as owner of the apartment he purchased from the JNA on 3 April 1992, and that he agrees that the matter of his complaint has thereby been solved. Under these circumstances, the Chamber finds that the matter has been resolved and does not find it inconsistent with the objective of respect for human rights to strike out the application.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber
First Panel

(signed)
Andrew GROTRIAN
Acting President of the