



DECISION TO STRIKE OUT

Case no. CH/98/456

Stanimirka VAJMAN

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 10 September 1999 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. 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 as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. On 7 February 1992 the applicant concluded a purchase contract for a JNA apartment at M. Tita 1 and paid the purchase price due. The applicant left Sarajevo because of the hostilities during which time the applicant's apartment was declared permanently abandoned and allocated to another person.

2. The applicant lodged an application to re-enter possession of her apartment to the Commission for Real Property Claims of Displaced Persons and Refugees on 6 March 1997 ("Annex 7 Commission"). According to the application the applicant also submitted a complaint to the Human Rights Ombudsperson's Office on an unspecified date.

II. COMPLAINT

3. The applicant requests repossession of the apartment and for her right of ownership to be recognised.

I. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 5 January 1998 and registered on the same day.

5. The Chamber wrote to the applicant on 30 September 1998 stating that it would not normally consider cases pending before the Human Rights Ombudsperson. The applicant was asked whether she wished to proceed with her case. No response was received from the applicant.

6. On 18 June 1999 the Chamber wrote to the applicant asking whether her application raised matters essentially different from or additional to the subject matter brought before the Annex 7 Commission or if there were any other reasons why the Chamber should nevertheless consider the case. The applicant was warned that if she did not reply within two weeks from the date of the letter that the applicant's case would most likely be declared inadmissible.

7. In the above letter the applicant was also asked to notify the Chamber within the same time limit if she decided not to proceed with her application so that it could be removed from the Chamber's case list. The Chamber has received no reply to either of these requests.

II. 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 case. 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 recalls that the applicant failed to reply to any of the letters sent to her. The Chamber further notes that the applicant was explicitly warned, in the letter of 18 June 1999, that in case she fails to reply, her case might be declared inadmissible. All correspondence was sent to the applicant at the address given in her application. She has not informed the Chamber of any change in her address. Accordingly, the Chamber has no reason to believe that the applicant did not receive its letters.

10. The Chamber notes that the applicant has stated in her application that she has raised the same matter before the Annex 7 Commission and the Human Rights Ombudsperson's Office. Since the applicant has not provide any responses to Chambers requests regarding these applications and as the applicant was notified that the failure to do so would most likely terminate the examination of her case, the Chamber concludes that the applicant does not intend to pursue her application before

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

IV. CONCLUSION

11. For these reasons, the Chamber unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel