



DECISION TO STRIKE OUT

CASE No. CH/98/646

Skender AHMETOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 15 April 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. Vitomir POPOVIĆ

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) (b) of the Agreement as well as Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant has an occupancy right over an apartment in Josipa Vanceša 23 in Sarajevo since 1985, over which the Yugoslav National Army held the allocation right. In November 1995 the applicant left Sarajevo and has stayed abroad for medical treatment since then. In the meantime, his apartment has been occupied by his mother. On 20 May 1998 the mother of the applicant received a note from the Army Housing Fund addressed to the applicant, informing him that the Fund wanted to inspect the apartment. He was asked in the note to report to the Fund on one of the following days. If he failed to do so, the apartment would be declared abandoned and would be allocated to someone else.

2. The applicant's mother went to the Army Housing Fund and was orally informed that she should vacate the apartment and hand over the keys before 29 May 1998. Should she fail to do so she would be forcibly evicted on that day and be sent to prison for six months. The applicant's sister informed the Chamber of the threatened eviction on 28 May 1998 and requested protection from the Chamber. On the same day the Chamber issued a Provisional Measure ordering the Federation of Bosnia and Herzegovina to refrain from evicting the applicant or his family from the apartment. Since then, no attempts have been made by the respondent Party to carry out the eviction.

3. On 28 September 1998 the applicant returned to Sarajevo for a brief period of time to prove his occupancy right. At first, the Army Housing Fund would not take his statement into consideration but terminated his rent payment booklet with the slips for the rent payments. However, after several submissions by his family the Fund returned the rent payment booklet.

4. On 29 January 1999 the applicant's sister informed the Chamber that their problems seemed to have been resolved, as the Army Housing Fund had recognized the applicant's occupancy right and his right to purchase the apartment. She reserved the right to reactivate the case if further difficulties would arise.

II. COMPLAINTS

5. The applicant, represented by his sister, alleged a violation of "personal rights" and asked for the protection of those rights and "their" undisturbed stay in the apartment.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was submitted to the Chamber by the applicant's sister, Ms. Jasmina Koro, on 28 May 1998. On the same day the President issued an Order for a provisional measure to the effect that the Federation of Bosnia and Herzegovina was to refrain from evicting the applicant and his family from the apartment in question.

7. On 9 June 1998 the Federation, in reply to the Order, submitted a statement to the Chamber pointing out that there were not sufficient grounds for ordering the provisional measure. It held that the Federation Army organs had not endangered the applicant's right as the notification delivered to him was for the purpose of a regular control of all the apartments belonging to the Army Housing Fund, such controls being necessary to scrutinize the state and utilization of those apartments.

8. The Chamber asked the respondent Party by a letter of 2 March 1999 if it was prepared to formally recognize the applicant's rights. With a letter of the same date the Chamber asked the applicant whether he had purchased the apartment or whether he was in the process of doing so. The Chamber received no reply.

IV. OPINION OF THE CHAMBER

9. According to Article VIII(3) of the Agreement, the Chamber may at any point decide to strike out an application on the ground (a) that the applicant does not intend to pursue the 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.

10. In the present case the Chamber considers the matter addressed by the application resolved as the respondent Party no longer interferes with the residence of the applicant's family in the apartment. Therefore, it is no longer justified to continue the examination of the Case. As the position that the applicant wants protected is now recognized by the respondent Party, a decision to strike out is not inconsistent with the objective of respect for human rights. This does not preclude the applicant from bringing a new application, if the situation so requires.

V. CONCLUSION

11. For these reasons, the Chamber unanimously,

- 1. STRIKES OUT THE APPLICATION; and**
- 2. withdraws the provisional measure.**

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel