



DECISION TO STRIKE OUT

Case no. CH/98/723

Dragoljub USORAC

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 8 September 1999 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 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. The applicant is a pensioner who, on 19 March 1992, entered into a purchase contract for an apartment, located at Čekaluša (formerly Nemanjina) 21/III, Sarajevo, from the Yugoslav National Army ("the JNA"), where the applicant has resided continuously at least since the signing of his purchase agreement. However, the contract was annulled by legislation passed shortly after the General Framework Agreement for Peace in Bosnia and Herzegovina entered into force in December 1995.
2. Since the annulment of his contract the applicant has not brought proceedings before any judicial body.
3. On 1 July 1999 the Law on Selling Apartments over which an Occupancy Right Exists was amended (Official Gazette of the Federation of Bosnia and Herzegovina no. 27/99). This law states that the occupancy right holder of a JNA apartment is using that apartment legally if the contract for that apartment was concluded before 6 April 1992 (full text below).

II. COMPLAINT

4. The applicant complained of the non-execution of a legally enforceable contract and of the inability to pursue any effective legal remedy in effort to enforce said contract. The applicant indicated that the annulment of his contract violated his property rights as guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights, regarding, generally, the right to property. The applicant also raised allegations under Article 13 of the Convention, regarding the right to an effective remedy under law.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 26 June 1998 and registered on the same day. Mr. Peter Grabovac, a lawyer in Sarajevo, represents the applicant.
6. Pursuant to Rule 49(3)(b) the Chamber transmitted the application to the respondent Parties on 22 April 1999 for observations on the admissibility and merits of the complaint relating to the alleged violation of the applicants right to his property and to the right to an effective remedy before a national authority.
7. On 23 June 1999 the Federation of Bosnia and Herzegovina submitted observations to the Chamber, which were forwarded to the applicant on 16 July 1999. No observations were received from Bosnia and Herzegovina.
8. On 28 July 1999 the applicant withdrew his application from the Chamber, owing to the change in the Law on Selling Apartments over which an Occupancy Right Exists, which states:

"The occupancy right holder over an apartment which is at the disposal of the Ministry of Defense of the Federation of Bosnia and Herzegovina is using that apartment legally if he or she had concluded a legally binding contract for the purchase of that apartment with the Federal Secretariat of the National Defense of the Federation of Bosnia and Herzegovina issues an order that the occupancy right holder is to be registered as the owner of the apartment at the competent court."

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 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.

10. In this case, the applicant has indicated that he is withdrawing his application. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. The Chamber further finds that this is not inconsistent with the objective of respect for human rights.

V. 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 Chamber