



DECISION TO STRIKE OUT

Case no. CH/98/792

Hamed SELMANOVIĆ

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 6 April 2000 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 and Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. Together with his wife he moved into an apartment at Džemala Bijedića Street 88, Sarajevo, on the basis of a procedural decision by the Secretariat for Housing Affairs of Sarajevo City of 23 January 1996, allocating the apartment to him for temporary use. The applicant submitted that for reasons of health he and his wife could not live in the apartment of which he previously had the occupancy right, as it had been devastated during the war and was situated on the 18th floor. The applicant and his wife are in very poor health, he survived a severe heart attack in 1995 and his wife underwent surgery five times during the war.

2. On 3 May 1996 the pre-war occupancy right holder over the apartment in question, R.F., requested to be reinstated into the possession of his apartment. On 22 October 1996 the Secretariat for Housing Affairs of Sarajevo City issued a decision confirming that R.F. is the occupancy right holder and ordering the applicant to vacate the apartment within one year of the cessation of immediate threat of war, at the latest. The state of immediate threat of war ceased on 23 December 1996.

3. The applicant appealed against this decision, but it was upheld on 28 November 1997 by the Ministry of Urban Planning, Housing and Communal Affairs ("the Ministry"). On 27 January 1998 the applicant initiated an administrative dispute against the Ministry before the Cantonal Court in Sarajevo. The Chamber has not received any information as to whether a decision has been taken in these proceedings.

4. On 15 July 1998 the applicant received an order for his eviction from the apartment in question. The eviction was scheduled for 22 July 1998. At an unspecified date the applicant moved back into his pre-war apartment at Ložionička Street 5 in Sarajevo.

II. COMPLAINTS

5. The applicant complained that the scheduled eviction violated his rights to freedom, to private and family life and to peaceful enjoyment of his possessions, and asked the Chamber to halt it.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was received on 21 July 1998 and registered on the same day.

7. On 7 January 1999 the applicant's son orally informed the Chamber that his father moved back to his pre-war apartment at Ložionička Street 5 in Sarajevo.

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 moved back to the apartment of which he held the occupancy right before he moved into the apartment at Džemala Bijedića Street 88. As the application was aimed at preventing the threatened eviction from the latter apartment, the matter appears to have been solved.

10. The Chamber also notes that the apartment at Džemala Bijedića Street 88 was allocated to the applicant for temporary use and that he was forced to leave it in order to allow the pre-war occupancy right holder to regain possession of it. In these circumstances, the Chamber does not find it inconsistent with the objective of respect for human rights to strike out the application.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel