



DECISION TO STRIKE OUT

Case no. CH/98/812

Ismet IZMIRLIJA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 3 July 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 and Rule 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The case concerns a complaint about a decision of the Administration for Housing Affairs of Sarajevo Canton (hereinafter “the Administration”) ordering the applicant’s eviction from the apartment he temporarily occupied at Obala Kulina Bana 32 in Sarajevo, the Federation of Bosnia and Herzegovina.

2. The applicant is the pre-war occupancy right holder over an apartment in the suburbs of Sarajevo, Municipality Hadžići, the Federation of Bosnia and Herzegovina. He was forced to leave that apartment due to the war hostilities. The applicant occupied the apartment at the above-mentioned address, which was allocated to him as a displaced person, on the basis of a temporary decision issued on 15 September 1995 by the City Secretariat for Housing Affairs of Sarajevo. The applicant’s pre-war apartment was damaged during the armed conflict and was not habitable.

II. PROCEEDINGS

3. The application was received on 29 July 1998 and registered on the same day. The applicant requested that the Chamber issue an order for provisional measures to postpone his eviction from the apartment in question, which was scheduled for 3 August 1998.

4. On 30 July 1998, the President of the Second Panel issued an order for provisional measures prohibiting the eviction of the applicant until 4 October 1998. This order was not respected, and the applicant was consequently evicted on 3 August 1998.

5. On 13 November 2002 and 27 February 2003, the Chamber sent letters to the applicant asking him to update the Chamber on the status of his case. On 21 March 2003, the applicant replied, informing the Chamber that he had left the apartment in question at Obala Kulina Bana on 2 August 1998. He stated he was a sub-tenant for two months before he was able to return to his pre-war apartment.

III. OPINION OF THE CHAMBER

6. In accordance with Article VIII(3) of the Agreement, “the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights.”

7. The Chamber notes with concern that the provisional measure issued by it on 30 July 1998 was not respected. However, the Chamber also notes that the applicant was a sub-tenant for only two months before repossessing his pre-war apartment and that his eviction allowed the pre-war occupancy right holder to return to the apartment in question. Considering that the applicant has repossessed his pre-war apartment, the Chamber finds that the primary matter raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the application, pursuant to Article VIII(3)(b) of the Agreement.

IV. CONCLUSION

8. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel