



DECISION TO STRIKE OUT

Case no. CH/99/1934

Zumra HALIMOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 October 2000 with the following members present:

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

Mr. Peter KEMPEES, 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, a citizen of Bosnia and Herzegovina of Bosniak descent, is the holder of the occupancy right over an apartment located at Braće Mažar 78/II in Banja Luka. In 1993 the municipality of Banja Luka purported to terminate her occupancy right over the apartment and allocated her another, smaller, apartment. She vacated the first apartment in 1993.

2. On 31 March 1999 the applicant applied to the Commission for the Accommodation of Refugees and Administration of Abandoned Property in Banja Luka, a department of the Ministry for Refugees and Displaced Persons, under the Law on Cessation of Application of the Law on Use of Abandoned Property to be entitled to regain possession of the first apartment. On 11 January 2000 it issued a decision in these terms and ordered the occupant to vacate it. On 6 June 2000 the Commission issued a conclusion scheduling the eviction of the occupant in order that the applicant could regain possession of the apartment. This eviction was carried out on 14 June 2000 and the applicant regained possession of the apartment.

II. COMPLAINTS

3. The applicant complained in general of her inability to regain possession of the apartment in question.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 27 May 1999 and registered on the same day.

5. On 10 December 1999 the Registrar of the Chamber and Deputy Human Rights Ombudsperson for Bosnia and Herzegovina wrote to the applicant. This letter informed her that an application submitted by her and concerning the same matter was pending both before the Chamber and the Ombudsperson, and asked her to state whether she wished to proceed with her application before either the Chamber or Ombudsperson. On 29 December 1999 her reply was received, in which she stated that she wished to proceed with her application before the Chamber.

6. On 14 April 2000 the application was transmitted to the Republika Srpska for observations on its admissibility and merits. These were received on 16 July 2000, after the expiry of the relevant time-limit. In its observations, the Republika Srpska stated that the applicant had regained possession of the apartment and that the application was therefore resolved.

7. On 25 July 2000 the Chamber transmitted the above observations to the applicant and asked her to confirm whether she had regained possession of the apartment. On 31 July 2000 her reply was received, in which she stated that she had done so and that she considered the matter to be resolved.

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 (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. The Chamber notes that the applicant complained of her inability to regain possession of the apartment which she occupied until 1993. She has now managed to regain possession of it and has stated that she considers the matter to be resolved.

10. Accordingly, the Chamber concludes that the matter has been resolved. 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.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously

STRIKES OUT THE APPLICATION.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel