



DECISION TO STRIKE OUT

Case no. CH/99/2032

Šefika AMBEŠKOVIĆ

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 11 January 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
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 as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. In 1993 she left Sarajevo in order to undergo medical treatment abroad. On 10 February 1995 her apartment in Sarajevo, at Hadžilojina Street 2 (now Brdakčije), was allocated to a displaced family from Pale.
2. Upon the applicant's return to Sarajevo in 1996, she moved with her family into a devastated apartment at Voje Dimitrijevića Street 1, previously used by Ms. A.B. There is no evidence that the applicant had any title to occupy that apartment.
3. On 16 July 1998 the applicant received a decision issued by the Sarajevo Canton Administration of Housing Affairs confirming her occupancy right over the apartment at Brdakčije Street 2, allowing her reinstatement into the possession of the apartment, and ordering the occupants of the apartment to vacate it within 90 days from the issuance of the decision.
4. On 8 October 1998 the applicant received a decision issued by the Commission for Real Property Claims of Displaced Persons and Refugees, confirming her occupancy right over the apartment at Brdakčije Street 2 in Sarajevo. The decision states that the applicant may enter into the possession of the above apartment in accordance with Article 1 of Annex 7 to the Dayton Peace Agreement.
5. On 22 March 1999 the Municipal Court II in Sarajevo passed a judgement in favor of A.B., the previous occupancy right holder at Voje Dimitrijevića Street 1, ordering the applicant to vacate the apartment and to return it into the possession of A.B. within 15 days, under threat of forcible eviction.
6. At an unspecified date before 22 December 1999 the applicant regained possession of her pre-war apartment at Brdakčije Street 2.

II. COMPLAINTS

7. The applicant complained of a violation of her right to respect for her home guaranteed by Article 8 of the European Convention on Human Rights.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was introduced on 8 April 1999 and registered on the same day. The applicant requested the Chamber to help her to regain possession of her pre-war apartment at Brdakčije Street 2 and requested the Chamber to issue a provisional measure suspending her eviction from the apartment in Voje Dimitrijevića Street.
9. The Chamber decided not to issue the provisional measure requested.
10. The application was transmitted to the respondent Party on 19 May 1999. The Chamber received the respondent Party's observations on admissibility and merits of the application on 19 July 1999 and transmitted them to the applicant.
11. On 22 December 1999 the Chamber received a letter from the applicant asking it to cease consideration of her case, as she had in the meantime moved into the apartment over which she enjoyed an occupancy right before the war.

IV. OPINION OF THE CHAMBER

12. 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 her 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.

13. In the present case the applicant has asked that the Chamber cease consideration of her application as she has regained possession of her apartment. The Chamber considers that, the underlying matter having been solved, 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

14. 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