DECISION TO STRIKE OUT

Case no. CH/99/2231

Katerina DUČIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 April 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I.   INTRODUCTION

1.   The applicant complained of her inability to return to her pre-war apartment located at Ulica Bulevar Meše Selimovića no. 37/II in Sarajevo. The occupancy right holder over the apartment in question is the applicant's husband.

II.   PROCEEDINGS BEFORE THE CHAMBER

2.   The application was introduced to the Chamber on 27 May 1999 and registered on 31 May 1999.

3.   The application was transmitted to the Federation of Bosnia and Herzegovina for its observations on 7 May 2001. On 21 June 2001, the Chamber received the observations from the respondent Party stating that the applicant had been reinstated into possession of the apartment in question on 7 March 2001.

4.   On 25 June 2001 the applicant informed the Chamber that she entered into possession of the apartment but that the apartment is in uninhabitable condition. Further in the same letter the applicant stated that she will visit the Chamber and submit necessary documentation. On 18 July 2001, the Chamber transmitted the observations of the respondent Party to the applicant and asked her to confirm that she had been reinstated into possession of her apartment. On 11 November 2002 the Chamber sent a letter to the applicant, by registered mail, to the address of her pre-war apartment asking her whether she considers the matter raised in her application to be resolved. The applicant did not respond to this letter. On 5 February 2003 the Chamber again sent a letter to the applicant, by registered mail, to two different addresses asking her whether she considers the matter raised in her application to be resolved. The applicant did not respond to these letters and the deadline set for her answer has expired. The delivery receipts were not returned to the Chamber but in the post book it is confirmed that the Chamber sent these letters by registered mail.

III.   OPINION OF THE CHAMBER

5.   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 (a) the applicant does not intend to pursue his application; … provided that such a result is consistent with the objective of respect for human rights."

6.   The Chamber notes that in the case-file there is evidence that the applicant has been reinstated into possession of her pre-war apartment, which was the matter raised in the application. The Chamber wrote to the applicant asking her whether she considered the matter resolved. The applicant has not responded to these letters and has indeed not been in touch at all with the Chamber since 25 June 2001. Considering all of these things, the Chamber can only conclude that the applicant does not intend to pursue her application. 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)(a) of the Agreement.

IV. CONCLUSION

7.   For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION

(signed)   (signed)
Ulrich GARMS   Michèle PICARD
Registrar of the Chamber   President of the First Panel