



DECISION TO STRIKE OUT

Case no. CH/99/3154

Ahman MUMINOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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. Manfred NOWAK
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 and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. On 17 June 1999 he was granted permanent use of the apartment located at Ulica Fra Matije Divkovića br. 3/Pr. in Sarajevo by its owner, the public company J.P. "Željeznice BiH". The applicant was unable to enter into use of the apartment, however, due to the presence of an illegal user.

2. J.P. "Željeznice BiH" submitted a request for the illegal user's eviction on 20 July 1999 to the Ministry of Housing Affairs for Canton Sarajevo. On 28 July 1999 the illegal user applied to the same authority for recognition of his occupancy right. The ministry scheduled a public hearing for 29 September 1999 in order to determine who should be allowed to possess the apartment. Despite repeated requests for a decision, however, the Ministry did not issue a decision on the case.

3. On 5 June 2000 the applicant informed the Chamber that the Ministry for Housing Affairs of Canton Sarajevo had taken "legal measures" to allow him to move into his apartment. The applicant did not specify the nature of these legal measures.

II. COMPLAINTS

4. The applicant complained that the illegal user prevented him from moving into his apartment and that the competent organs enabled such obstruction by refusing to issue a decision for eviction.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was received on 11 November 1999 and registered on the same day.

6. On 5 June 2000 the Chamber received a letter from the applicant informing it that he had gained possession of his apartment. Accordingly, he expressed the wish to withdraw his application.

IV. OPINION OF THE CHAMBER

7. 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.

8. In the present case the Chamber recalls that the applicant gained possession of his apartment and expressed a wish to withdraw his application. Accordingly, the Chamber finds that the applicant does not intend to pursue his application and that the underlying matter of the application has been resolved. In these circumstances it is no longer justified to continue the examination of the application. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

9. 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