



**DECISION ON ADMISSIBILITY AND
TO STRIKE OUT**

Case no. CH/98/195

Zlata TODORVIĆ – OSTROGOVIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 2002 with the following members present:

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

Mr. Ulrich GARMS, 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(2)(c) and Article VIII(3)(b) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 22 December 1996 with the Ombudsperson for Bosnia and Herzegovina. On 22 May 1998 the Ombudsperson for Bosnia and Herzegovina referred the case to the Chamber.
2. The applicant complained of her inability to regain repossession of her pre-war apartment, located at Žrtava fašizma no. 2/XVI, in Sarajevo.
3. On 13 March 2001 the applicant informed the Chamber that on 12 July 2000 she had succeeded to enter into possession of the above-mentioned apartment. However, the applicant stated that she would like to maintain her claim for compensation for pecuniary and non-pecuniary damages, including a claim for loss of valuable moveable property left in the apartment.

II. OPINION OF THE CHAMBER

A. Claim for loss of moveable property

4. In accordance with Article VIII(2) of the Agreement, “the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition.”

5. Regarding the applicant’s claim for loss of moveable property left in her pre-war apartment, the Chamber notes that the alleged loss of moveable property would not have occurred if the eviction of the temporary occupant of the apartment had occurred at an earlier stage. However, the applicant has not provided any indication that the alleged loss of moveable property has been directly caused by the respondent Party or any person acting on its behalf. To the contrary, it appears that the loss of moveable property has been caused by the temporary occupant of the apartment. As a result, the respondent Party cannot be held responsible for this loss. It follows that this part of the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible.

B. Claim for repossession of property

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. Considering that the applicant has realised her request for repossession of her apartment, the Chamber finds that the matter raised in the application has been resolved. The Chamber notes that the applicant has expressed her intention to pursue the application before the Chamber in regard to the compensation claim. The Chamber observes, however, that it can only award compensation if it makes a finding of a violation of the Agreement. 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 remainder of the application.

III. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE insofar as it relates to the loss of moveable property, and

STRIKES OUT THE REMAINDER OF THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel