



DECISION TO STRIKE OUT

Case no. CH/99/1773

Zorka VUKOVIĆ

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 11 October 2002 with the following members present:

Ms. Michèle PICARD, 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(3) 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 repossess her pre-war apartment, located at Ulica Patriotske lige 38/V-30, in Sarajevo.
2. On 24 August 1998 the applicant submitted a request for reinstatement into possession of her apartment to the Administration for Housing Affairs of the Centar Municipality – Sarajevo, which transmitted the claim to the Administration for Housing Affairs of the Sarajevo Canton (“the Administration”).
3. On 17 December 1998 the Commission for Real Property Claims of Displaced Persons and Refugees (“CRPC”) issued a decision confirming the applicant’s occupancy right over her pre-war apartment.
4. On 9 February 1999, due to the silence of the Administration, the applicant lodged an appeal before the Ministry of Housing Affairs of the Sarajevo Canton.
5. On 15 December 1999 the applicant submitted a request for execution of the CRPC decision to the Service of Housing Affairs of Sarajevo Municipality.
6. On 27 November 2001 the applicant entered into possession of her pre-war apartment.

II. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 26 March 1999 and registered on the same day.
8. On 12 May 2000 the application was transmitted to the Federation of Bosnia and Herzegovina (“the Federation”) and to Bosnia and Herzegovina for their observations on the admissibility and merits under Articles 6 and 8 of the European Convention on Human Rights (“the Convention”) and Article 1 of Protocol No. 1 to the Convention. The Chamber received the observations of Bosnia and Herzegovina on 8 June 2000 and of the Federation on 12 July 2000.
9. On 14 February 2002 the applicant informed the Chamber that she had been reinstated into possession of her apartment on 27 November 2001. However she would like to maintain her claims for compensation.

III. OPINION OF THE CHAMBER

10. 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; or (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such a result is consistent with the objective of respect for human rights.”
11. The Chamber notes that the applicant lodged her application with a view to regaining possession of her apartment, and while the case was still pending before the Chamber, she regained such possession.
12. It would be open to the Chamber to consider the admissibility and merits of a case, when, as in the present case, the question arises whether the time-limits and other procedural requirements prescribed by domestic law have been complied with by the authorities. If it found a violation, then the Chamber would address the question of whether any remedies should be ordered, including compensation.
13. However, as the Chamber explained in the case of *S.P.* (case no. CH/99/2336, decision to strike out of 2 July 2001, Decisions July–December 2001), the Chamber is not unmindful of the

difficulties faced by the domestic authorities in implementing the property legislation in force in a timely manner. Consequently, where it is established that the domestic authorities, albeit belatedly, have taken effective action and where the applicant has in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application, unless there are particular reasons, apart from the delays in the reinstatement, that require continued consideration.

14. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of her apartment on 27 November 2001. That being so, the Chamber considers that the main issue raised in the application has been resolved. The Chamber further notes, however, that the applicant has expressed her intention to pursue the application before the Chamber in regard to her claim for compensation. The Chamber observes that it can only award compensation if it makes a finding of a violation of the Agreement. Apart from the delays that occurred in securing her reinstatement, the applicant has not drawn the Chamber's attention to any special circumstances regarding the respect for human rights which would require the examination of the application to be continued after the main issue raised in the application has been resolved, and the Chamber considers that no such special circumstances are present in this application. In the circumstances, the Chamber finds that it would not be inconsistent with the objective of respect for human rights to strike out the application. Consequently, the claim for compensation cannot be considered.

15. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3) of the Agreement.

IV. CONCLUSION

16. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar

(signed)
Michèle PICARD
President of the First Panel