



## **DECISION TO STRIKE OUT**

**Case no. CH/98/1168**

**Dževahira DUBIČANAC**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 2002 with the following members present:

Mr. Giovanni GRASSO, President  
Mr. Viktor MASENKO-MAVI, Vice-President  
Mr. Jakob MÖLLER  
Mr. Manfred NOWAK  
Mr. Mato TADIĆ

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

## **I. INTRODUCTION**

1. The case concerns the applicant's attempts to regain possession of her pre-war property located at Petra Pecije Street 12 A in Gradiška, the Republika Srpska.
2. On 13 August 1998 the applicant lodged a request before the Ministry for Refugees and Displaced Persons, Gradiška Department, regarding repossession of her pre-war property.
3. On 21 December 1999, the applicant entered into possession of her pre-war property.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

4. The application was introduced on 17 September 1998 and registered on the same day.
5. On 18 February 1999, the Chamber transmitted the application to the respondent Party for its 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.
6. On 16 May 2000, the respondent Party provided information to the Chamber that the applicant had regained possession of her property on 21 December 1999. The applicant confirmed this information and noted that while she withdraws her complaints in this respect, she would like to maintain her claim for compensation.

## **III. OPINION OF THE CHAMBER**

7. 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 ... (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."
8. The Chamber notes that the applicant lodged her application with a view to regaining possession of her property, and while the case was still pending before the Chamber, she regained such possession. The Chamber further notes that although the applicant has been reinstated, she understandably asks the Chamber to find a violation of her rights protected by the Agreement due to the time that elapsed between her request for reinstatement into possession of her pre-war property and the actual repossession. She also asks the Chamber to order the respondent Party to pay compensation to her in recognition of the damage, both pecuniary and non-pecuniary, suffered by her during the course of that time.
9. The Chamber recalls that under Article VIII(2)(e) of the Agreement, "the Chamber shall endeavour to give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds". As the Chamber has explained in the case of *Vujičić v. the Federation of Bosnia and Herzegovina* (case no. CH/99/2198, decision to strike out of 10 October 2002, Decisions July–December 2002), there are presently thousands of undecided applications pending before the Chamber, and this number is growing month by month. Moreover, significant progress in the return and property law implementation process in Bosnia and Herzegovina has occurred (*id.* at paragraphs 15-16).

10. Taking into account that the applicant has been reinstated into possession of her property, the Chamber considers that the ongoing alleged human rights violation has been brought to an end and the main issue of the application has been resolved. The Chamber recognises that valid reasons may underlie the applicant's request to nonetheless maintain her claim for compensation. However, in the light of the considerations discussed above, the Chamber finds that "it is no longer justified to continue the examination of the application" within the meaning of Article VIII(3)(c) of the Agreement. The Chamber moreover finds that this result is "consistent with the objective of respect for human rights", as this "objective" must be understood to embrace not only the individual applicant's human rights, but also the Chamber's more general mandate to assist the Parties in securing to all persons within their jurisdiction the highest level of internationally recognised human rights (Articles I and II of the Agreement).

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

#### **IV. CONCLUSION**

12. For these reasons, the Chamber, unanimously

#### **STRIKES OUT THE APPLICATION.**

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Giovanni GRASSO  
President of the Second Panel