



DECISION TO STRIKE OUT

Case no. CH/99/1546

Branka KRSTIĆ

against

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

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. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
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 application was introduced on 8 February 1999 and registered on the same day.
2. The applicant complained of her inability to repossess her pre-war apartment located at Ulica Koševo no. 4/II, in Sarajevo.
3. On 22 November 1996 the applicant submitted a claim to repossess her pre-war apartment to the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC").
4. On 11 June 1998 the applicant submitted a claim to repossess her apartment to the Administration for Housing Affairs of the Sarajevo Canton. On 3 December 1998 that administrative body issued a procedural decision approving the applicant as the co-holder of the occupancy right and allowing her claim to repossess the apartment.
5. On 8 June 1999 the CRPC issued a decision confirming that the applicant's late husband was the occupancy right holder over the apartment and allowing the members of his household to repossess the apartment.
6. On 23 July 1999 the applicant requested enforcement of the CRPC decision.
7. On 3 November 2000 the Administration for Housing Affairs of the Sarajevo Canton issued a procedural decision confirming the applicant as the co-holder of the occupancy right and allowing the applicant to repossess the apartment.
8. On 29 November 2000 the applicant was reinstated into possession of her pre-war apartment.
9. On 29 June 2001 the applicant submitted a letter informing the Chamber that she entered into possession of her pre-war apartment on 29 November 2000. She withdrew her claim to regain possession of the apartment before the Chamber. However, the applicant explicitly stated that she would like to maintain her request for compensation for pecuniary and non-pecuniary damages and for compensation for costs and expenses that she had incurred in the proceedings.

II. 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 ... (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. 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 apartment 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.
12. 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).

13. Taking into account that the applicant has been reinstated into possession of her apartment, 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).

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

III. CONCLUSION

15. 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