



## **DECISION TO STRIKE OUT**

**Case no. CH/98/1053**

**Radmila SOUČEK – MARIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 2003 with the following members present:

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

Mr. Ulrich GARMS, Registrar  
Ms. Olga KAPIĆ, Deputy Registrar  
Ms. Antonia DE MEO, 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 6 November 1998 and registered on the same day.
2. The case concerns the applicant's attempts to regain possession of her pre-war apartment, located at Milana Preloga no. 8/IV, in Sarajevo, the Federation of Bosnia and Herzegovina. The owner of the apartment is the Government of Bosnia and Herzegovina.

## **II. FACTS**

3. On 24 June 1994 the applicant left Sarajevo. When she returned, on 12 April 1996, she submitted a request to the City Secretariat for Housing Affairs, Sarajevo City ("the Secretariat") for repossession the apartment in question. On 15 May 1996 the Secretariat issued a conclusion rejecting the applicant's request as out of time.
4. On 28 May 1997 the applicant addressed the owner of the apartment, asking for repossession. On 30 May 1997 the owner informed the applicant that it would not decide on her request for repossession because under the law it was not competent.
5. On 19 May 1998 the applicant submitted a request for repossession to the Administration for Housing Affairs of the Sarajevo Canton ("the Administration"). On 2 July 1998 the Administration issued a procedural decision confirming that the applicant has a right to submit a request for repossession.
6. The applicant filed an appeal against the procedural decision of 2 July 1998 to the Ministry for Physical Planning, Housing and Utility Affairs ("the Ministry"). On 20 October 1998 the Ministry refused the appeal.
7. On 17 December 1998 the Commission for Real Property Claims of Displaced Persons and Refugees ("the CRPC") issued a decision confirming that the applicant was an occupancy right holder over the apartment in question.
8. On 4 October 1999 the Administration issued a procedural decision annulling the procedural decision of 2 July 1998 and confirmed that the applicant is an occupancy right holder over the apartment in question.
9. On 27 November 1999 the applicant asked the Administration to issue a procedural decision of forcible eviction. On 11 January 2000 the applicant asked the Administration to issue a decision on enforcement of the procedural decision of 4 October 1999. On 31 January 2000 the applicant submitted a request for urgency.
10. On 9 March 2000 the applicant submitted a request for enforcement of the CRPC decision.
11. On 16 May 2000 and 7 August 2000 the applicant asked the Administration to issue a conclusion on enforcement of the procedural decision of 4 October 1999.
12. On 12 September 2002 the applicant entered into possession of her pre-war apartment. The applicant noted that while she withdraws her complaints in this respect, she would like to maintain her compensation claim for pecuniary damage.

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

13. 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.”

14. 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 pecuniary damage she suffered.

15. 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).

16. 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).

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

#### **IV. CONCLUSION**

18. For these reasons, the Chamber, unanimously,

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

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the First Panel