



DECISION TO STRIKE OUT

Case nos. CH/00/3724 and CH/00/4721

Redžila JOLDIĆ and Hariz BILALIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 February 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, Deputy Registrar

Having considered the aforementioned applications 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 Article VIII(3)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The cases concern the applicants' attempts to regain possession of their pre-war property located in Bijeljina, the Republika Srpska.

II. FACTS

A. Case no. CH/00/3724 Redžila JOLDIĆ

2. The applicant is the co-owner of a house located at Srpske vojske 205 in Bijeljina. On a date unknown to the Chamber, the applicant submitted a request for repossession of his property to the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC"). On 8 June 1999, the CRPC issued a decision confirming that the applicant was a *bona fide* possessor of the property on 1 April 1992. On 10 January 2000, the applicant filed a request for execution of the CRPC decision to the Ministry of Refugees and Displaced Persons in the Republika Srpska, Department in Bijeljina (the "Ministry").

3. On 22 October 2001, the applicant entered into possession of her pre-war property.

B. Case no. CH/00/4721 Hariz BILALIĆ

4. The applicant is the co-owner of a house located at Srpske vojske 157 in Bijeljina. On a date unknown to the Chamber, the applicant submitted a request for repossession of his property to the CRPC. On 8 October 1998, the CRPC issued a decision confirming that the applicant was a *bona fide* possessor of the property on 1 April 1992. On 7 December 1999, the applicant filed a request for execution of the CRPC decision to the Ministry. On 17 April 2001 the Ministry issued a conclusion on the enforcement of the CRPC decision.

5. On 13 July 2001, the applicant entered into possession of his pre-war property.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The applications were introduced on 21 March 2000 and 24 April 2000 and registered on 7 April 2000 and 26 April 2000.

7. On 11 October and 26 October 2001, the Chamber transmitted the applications to the respondent Party for its observations on the admissibility and merits under Articles 6, 8, 13 and 14 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention. On 10 December 2001 the respondent Party submitted its observations.

8. On 22 November 2001 and 15 April 2002, the applicants submitted information to the Chamber that they had regained possession of their pre-war property on 22 October 2001 and 13 July 2001, respectively. Both applicants noted that while they withdraw their complaints in this respect, they would like to maintain their claims for compensation.

IV. OPINION OF THE CHAMBER

9. 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."

10. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their property, and while the cases were still pending before the Chamber, they regained such possession. The Chamber further notes that although the applicants have been reinstated, they understandably ask the Chamber to find a violation of their rights protected by the Agreement due to the time that elapsed between their request for reinstatement into possession of their pre-war property and the actual repossession. They also ask the Chamber to order the respondent Party to pay compensation to them in recognition of the damage, both pecuniary and non-pecuniary, suffered by them during the course of that time.

11. 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).

12. Taking into account that the applicants have been reinstated into possession of their property, the Chamber considers that the ongoing alleged human rights violation has been brought to an end and the main issue of each application has been resolved. The Chamber recognises that valid reasons may underlie the applicants’ requests to nonetheless maintain their claims 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[s]” 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).

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

V. CONCLUSION

14. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATIONS.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel