



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/99/1610

Persa ČEREMIDŽIĆ

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 5 March 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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 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 Article VIII(2)(c) and VIII(3)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 18 February 1999 and registered on the same day.
2. The applicant complained of her inability to repossess her pre-war apartment, located at Ulica Emila Zole 7, in Sarajevo.
3. On 10 January 2003, the applicant informed the Chamber that she had been reinstated into possession of her pre-war apartment and that she considers her case completed.

II. OPINION OF THE CHAMBER

A. With respect to Bosnia and Herzegovina

4. In accordance with Article VIII(2) of the Agreement, “the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition.”

5. With regard to the two respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton responsible for the proceedings complained of by the applicant is an organ of the Canton, the conduct of which engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.

B. With respect to the Federation of Bosnia and Herzegovina

6. 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; ... provided that such a result is consistent with the objective of respect for human rights.”

7. Concerning the claim against the Federation of Bosnia and Herzegovina, the Chamber notes that the applicant lodged her application with a view to regaining possession of her pre-war apartment, and while her case was still pending before the Chamber, she regained such possession. The Chamber further notes that the applicant stated in her correspondence that as a result of her repossession, she considers her case completed. Accordingly, the Chamber finds that the matter raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the application as against the Federation of Bosnia and Herzegovina, pursuant to Article VIII(3)(b) of the Agreement.

III. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE IN PART and STRIKES OUT THE REMAINDER OF THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel