



## **DECISION TO STRIKE OUT**

**Case nos. CH/98/196, CH/98/217 and CH/98/222**

**Nikola and Aiša RADULOVIĆ, Ljubica BUHA and Stana ALTARAC**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 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 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 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 applications were introduced during the time period between 18 June and 9 November 1996 with the Ombudsperson for Bosnia and Herzegovina. On 17 February 1998, the Ombudsperson for Bosnia and Herzegovina referred the cases to the Chamber.
2. The cases concern the applicants' attempts to regain possession of their pre-war apartments, located in Sarajevo.
3. The cases were transmitted to the respondent Party for its observations on 1 June 1998. The respondent Party submitted its written observations on 29 June 1998.
4. On 18 April and 20 September 2001, the respondent Party submitted additional observations in which it informed the Chamber that the applicants had regained possession of their pre-war apartments. Each of the applicants confirmed this information. They also highlighted that while they withdraw their complaints in this respect, they would like to maintain their claims for compensation.
5. Considering the similarity between the facts of the cases and the complaints of the applicants, the Chamber decided to join the present applications in accordance with Rule 34 of the Chamber's Rules of Procedure on the same day it adopted the present decision.

## **II. OPINION OF THE CHAMBER**

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 ... (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."
7. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their apartments, 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 requests for reinstatement into possession of their pre-war apartments 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.
8. 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).
9. Taking into account that the applicants have been reinstated into possession of their apartments, the Chamber considers that the ongoing alleged human rights violations have been brought to an end and the main issue of the applications 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).

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

### **III. CONCLUSION**

11. For these reasons, the Chamber, unanimously,

**JOINS THE APPLICATIONS and  
STRIKES OUT THE APPLICATIONS.**

(signed)  
Ulrich Garms  
Registrar of the Chamber

(signed)  
Mato TADIĆ  
President of the Second Panel