DECISION TO STRIKE OUT

Case no. CH/98/1803

Sakib BUDIMOVIĆ

against

THE REPUBLIKA SRPSKA

and

Case no. CH/02/9201

Ruža SPASOJEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 May 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 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 34, 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS AND PROCEEDINGS

A. CH/98/1803 Sakib BUDIMOVIĆ

1. The application was introduced on 31 December 1998 and registered on the same day.

2. The case concerns the applicant's attempts to regain possession of his pre-war property, located at Liskovac no. 41A in Gradiška, the Republika Srpska.

3. On 27 March 2003, the applicant informed the Chamber that he had regained possession of his pre-war apartment. The applicant noted that while he withdraws his complaints in this respect, he would like to maintain his claim for compensation.

B. CH/02/9201 Ruža SPASOJEVIĆ

4. The application was introduced on 12 April 2002 and registered on the same day.

5. The case concerns the applicant's attempts to regain possession of her pre-war apartment, located at Ulica Slobodana Principa Selje no. 4 in Sarajevo, the Federation of Bosnia and Herzegovina.

6. On 25 March 2003, the applicant informed the Chamber that she had regained possession of her pre-war apartment. The applicant noted that while she withdraws her complaints in this respect, she would like to maintain her claim for compensation.

C. Joinder of applications

7. 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

8. 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."

9. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their property, and while their 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 their pre-war possession 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.

10. 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).

11. 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 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" 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).

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

IV. CONCLUSION

13. For these reasons, the Chamber, unanimously,

JOINS THE APPLICATIONS and
STRIKES OUT THE APPLICATIONS.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel