



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/98/365

Nada KLANJŠEK

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 June 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 Articles VIII(2)(a) 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 1998 and registered on 10 April 1998.
2. The case concerns the applicant's attempts to repossess her pre-war apartment located at Ulica Merhemića trg broj 9/III in Sarajevo and to be registered as the owner of her apartment, which she had purchased from the former JNA (Yugoslav National Army) Fund prior to the armed conflict.
3. The Chamber sent a letter to the applicant on 27 March 2003, requesting her to inform the Chamber as to any developments in her case.
4. On 25 April 2003, the applicant responded that she had repossessed the apartment in question on 27 March 2001 and that she had received an order to be registered as the owner of the apartment. The applicant also informed the Chamber that she wishes to continue her case insofar as she has not been able to repossess the storage unit located on the ground floor.

II. OPINION OF THE CHAMBER

A. Claim for repossession and registration as the owner of the pre-war apartment

5. 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."

6. The Chamber notes that the applicant has informed it that she has succeeded in repossessing her pre-war apartment and that an order to be registered as the owner has been issued. That being so, the Chamber considers that the main issues raised in the application have been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require examination of this part of the application to be continued. The Chamber therefore decides to strike out this part of the application pursuant to Article VIII(3)(b) of the Agreement.

B. Claim for repossession of the storage unit

7. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

8. The applicant has submitted that, on numerous occasions, she has requested the user of the storage unit to vacate it. However, the applicant has not submitted evidence of having addressed the competent organ with her request, nor of having initiated any court proceedings against the current user. Therefore, the Chamber considers that the domestic remedies have not been exhausted as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

III. CONCLUSION

9. 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)
Michèle PICARD
President of the First Panel