



DECISION TO STRIKE OUT

Case no. CH/02/12314

Rasim MIRVIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 3 July 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Manfred NOWAK
Mr. Vitimir 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(3)(c) of the Agreement and Rules 49 and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. This case concerns the applicant's attempts to regain possession of his pre-war house, located at ulica Ive Andrića 23 in Višegrad, Republika Srpska.
2. The applicant initiated proceedings before the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) in order to regain possession of his pre-war property. On 18 June 1998 CRPC issued a decision confirming the applicant's right to repossess the property.
3. The applicant finally regained possession of his property on 19 December 2002.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced to the Chamber on 7 October 2002 and registered on the same day.
5. The applicant complains that his rights protected under Articles 8 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention and Article 2 of Protocol No. 4 to the Convention have been violated.
6. The applicant submitted a claim for compensation for pecuniary and non-pecuniary damages and for his lawyer's fees.
7. On 14 May 2003, the applicant informed the Chamber that he had regained possession of his apartment. The applicant noted that while he withdraws his complaints in this respect, he would like to maintain his claim for compensation.

III. 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 applicant lodged his application with a view to regaining possession of his property, and while the case was still pending before the Chamber, he regained such possession. The Chamber further notes that although the applicant has been reinstated, he understandably asks the Chamber to find a violation of his rights protected by the Agreement due to the time that elapsed between his request for reinstatement into possession of his pre-war property and the actual repossession. He also asks the Chamber to order the respondent Party to pay compensation to him in recognition of the pecuniary and non-pecuniary damage suffered by him during the course of that time, including compensation for lawyer's fees.
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 applicant has been reinstated into possession of his property, the Chamber considers that the ongoing alleged human rights violation has been brought to an end and the main issue of the application has been resolved. The Chamber recognises that valid

reasons may underlie the applicant's request to nonetheless maintain his claim 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 application, pursuant to Article VIII(3)(c) of the Agreement.

IV. CONCLUSION

13. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel