



DECISION TO STRIKE OUT

Case nos. CH/99/2783 and CH/99/2853

Pavo BLAGOJEVIĆ and Hajrudin ĆOSIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

Case no. CH/00/4306

Osmo HUJDUR

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 4 July 2003, with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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. INTRODUCTION

1. In the following cases the applicants repossessed their property or apartment but none the less they wish to maintain their claims for compensation.
2. 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.

A. CH/99/2783 Pavo BLAGOJEVIĆ

3. The application was introduced on 14 August and registered on 17 August 1999.
4. The applicant complained of his inability to repossess a house located at Ulica Jasenica no. 6 in Srebrenik, the Federation of Bosnia and Herzegovina.
5. On 10 June 2003, the Chamber received a letter from the applicant in which he stated he had regained possession of his house. However, as the house is apparently severely damaged, he wishes to maintain his request for compensation.

B. CH/99/2853 Hajrudin ĆOSIĆ

6. The application was introduced on 9 September 1999 and registered on the following day.
7. The applicant complained of his inability to regain possession of his house located at Ulica Bircanskog Odreda no. 14 in Tuzla, the Federation of Bosnia and Herzegovina.
8. On 19 May 2003, the Chamber received a letter from the applicant that he had regained possession of his house on 28 February 2000. However, he continues to seek compensation for damages occurred during time when the temporary occupant lived in his house.

C. CH/00/4306 Osmo HUJDUR

9. The application was introduced on 7 March and registered on 10 March 2003.
10. The applicant complained of his inability to repossess an apartment allocated to him by a decision of the Housing Commission in Kalesija of 15 February 1988 and by a decision of the Court of First Instance in Tuzla of 14 April 1989. The apartment is located on the Business Premises "Tojšići" in Tuzla and was continuously occupied by a third person.
11. On 30 August 2000, the Municipal Court Kalesija, in renewed proceedings, confirmed the applicant's occupancy right over the apartment in question and allowed the occupant's forcible eviction.
12. On 14 December 2001, the applicant informed the Chamber that on 16 November 2001, he had entered into possession of the apartment at issue. He stated that his claim to regain possession of the apartment before the Chamber was solved. However, he would like to maintain his request for compensation for damages.

II. OPINION OF THE CHAMBER

13. 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."

14. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their property or apartment, 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 requests for reinstatement into possession of their pre-war property and the actual repossession. They also ask the Chamber to order the respondent Parties to pay compensation to them in recognition of the damage, both pecuniary and non-pecuniary, suffered by them during the course of that time.

15. 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).

16. Taking into account that the applicants have been reinstated into their property or apartment, 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’ request 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).

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

III. CONCLUSION

18. 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