



## **DECISION TO STRIKE OUT**

**Case no. CH/00/5009**

**Ahmet and Vahdet HODŽIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 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 to Article VIII(3)(c) of the Agreement as well as Rules 49 and 52 of the Chamber’s Rules of Procedure:

## **I. INTRODUCTION**

1. This case concerns the applicants' attempts to regain possession of their pre-war property, located in Vitina, the Federation of Bosnia and Herzegovina.
2. On 20 May 1998 one of the applicants initiated proceedings before the Municipal Council of the Municipality Ljubuški to regain possession of their property. The applicants finally regained possession of their property on 11 August 2000.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

3. The application was introduced on 31 May 2000 and registered on 1 June 2000.
4. On 7 July 2000 the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Articles 6, 8, and 14 of the European Convention on Human Rights (the "Convention"), Article 1 of Protocol No. 1 to the Convention, and Article II(2)(b) of the Agreement.
5. On 14 September 2000 the respondent Party submitted observations in which it suggested that the Chamber strike out the application as the matter has been resolved.
6. On 23 August 2001 the applicants informed the Chamber that they had been reinstated into possession of their property *de jure* on 11 August 2000, but they cannot live there as the property is empty of all moveable property and furniture. In the same letter the applicants also asked the Chamber to order the respondent Party to pay compensation to them in an unspecified amount.

## **III. OPINION OF THE CHAMBER**

7. 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."
8. The Chamber notes that the applicants lodged their application with a view to regaining possession of their property, and while the case was 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 possession of their pre-war property and the actual repossession. They also ask the Chamber to order the respondent Party to pay compensation to them in recognition of the damage suffered by them.
9. 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).
10. 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 application has been resolved. The Chamber recognises that valid reasons may underlie the applicants' request to nonetheless maintain their 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).

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

#### **IV. CONCLUSION**

12. For these reasons, the Chamber, unanimously,

**STRIKES OUT THE APPLICATION.**

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the First Panel