



DECISION TO STRIKE OUT

Case no. CH/00/5080

Džemaludin NIKŠIĆ

against

**BOSNIA AND HERZEGOVINA, THE REPUBLIKA SRPSKA AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 12 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, 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) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant complains of his inability to repossess his pre-war apartment, located at Ulica Miroslava Krleže no. 5/II, in Dobrinja I.
2. On 5 January 1998, the applicant lodged a request for reinstatement into possession of his apartment with the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC").
3. On 3 June 1998, the applicant requested the Administration of Housing Affairs of the Canton Sarajevo ("the Administration") to return possession of his pre-war apartment to him. On 17 June 1999, the applicant lodged a similar request with the Ministry for Refugees and Displaced Persons of the Republika Srpska.
4. On 11 July 2001, the applicant was reinstated into possession of his pre-war apartment.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 9 June 2000 and registered on the same day.
6. On 10 July 2000, the application was transmitted to the Federation of Bosnia and Herzegovina ("the Federation"), the Republika Srpska, and Bosnia and Herzegovina under Articles 6, 8, and 13 of European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention. The Chamber received the observations on the admissibility and merits of the application from the Republika Srpska on 20 August 2000 and from the Federation on 8 September 2000.
7. On 27 March 2002, the Federation informed the Chamber that the applicant had been reinstated into possession of his pre-war apartment on 11 July 2001.
8. On 3 May 2002, the Chamber sent a letter by registered mail to the applicant asking him to confirm that he had been reinstated into possession of his apartment and whether he would like to maintain his application. In this letter, the Chamber specifically warned the applicant that if he did not reply, the Chamber might decide to strike out his application. Although the Chamber received the signed delivery receipt for its letter, it has not received any answer from the applicant, and the deadline set for his answer expired on 17 May 2002.

III. OPINION OF THE CHAMBER

9. 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; or (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."
10. The Chamber notes that the applicant lodged his application with a view to regaining possession of his apartment, and while the case was still pending before the Chamber, he regained such possession.
11. It would be open to the Chamber to consider the admissibility and merits of a case, when, as in the present case, the question arises whether the time-limits and other procedural requirements prescribed by domestic law have been complied with by the authorities. If it found a violation, then the Chamber would address the question of whether any remedies should be ordered, including compensation.

12. However, as the Chamber explained in the case of *S.P.* (case no. CH/99/2336, decision to strike out of 2 July 2001, Decisions July–December 2001), the Chamber is not unmindful of the difficulties faced by the domestic authorities in implementing the property legislation in force in a timely manner. Consequently, where it is established that the domestic authorities, albeit belatedly, have taken effective action and where the applicant has in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application, unless there are particular reasons, apart from the delays in the reinstatement, that require continued consideration.

13. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of his apartment on 11 July 2001. The Chamber further notes that the applicant did not respond to its letter asking him to confirm that he had been reinstated into his apartment and inquiring whether he would like to maintain his application. That being so, the Chamber considers that the main issue raised in the application has been resolved. Apart from the delays that occurred in securing his reinstatement, the applicant has not drawn the Chamber's attention to any special circumstances regarding the respect for human rights which would require the examination of the application to be continued after the main issue raised in the application has been resolved, and the Chamber considers that no such special circumstances are present in this application. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3) of the Agreement.

IV. CONCLUSION

14. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel