



DECISION TO STRIKE OUT

Case no. CH/00/5244

Habiba RAHIĆ

against

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 Rule 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The case concerns the applicant's attempts to regain possession of her pre-war property in Tasovčići, the Municipality of Čapljina, the Federation of Bosnia and Herzegovina.
2. On 28 May 1998, the applicant submitted a request to the Municipality of Čapljina for reinstatement into possession of her property. At the time she submitted her application to the Chamber, the applicant alleged that in the Municipality of Čapljina there had been no cases of reinstatement into possession of pre-war property.
3. On 24 May 2002, the applicant entered into possession of her pre-war property.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 27 June 2000 and registered on 28 June 2000. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to make an inventory list and to prevent the alienation of her very valuable property. On 6 July 2000, the Chamber decided not to order provisional measures requested.
5. On 11 July 2000, the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Articles 6 (fair trial), 8 (respect of private and family life), and Article 14 (prohibition of discrimination on any grounds) of the European Convention on Human Rights (the "Convention"); Article 1 of Protocol No. 1 (peaceful enjoyment of possessions) to the Convention; and Article II(2)(b) of the Human Rights Agreement (prohibition of discrimination).
6. On 16 September 2002, the respondent Party provided information to the Chamber that the applicant had regained possession of her property on 24 May 2002. The applicant confirmed she had entered into possession of her pre-war property on 24 May 2002. In addition, the applicant noted that her request has been resolved and she wishes not to proceed the application.

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 ... (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."
8. The Chamber notes that the applicant lodged her application with a view to regaining possession of her property, and while the case was still pending before the Chamber, she regained such possession.
9. 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.
10. 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 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.

11. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of her property on 24 May 2002. That being so, the Chamber considers that the main issue raised in the application has been resolved. The Chamber further notes that the applicant considers the matter resolved. Apart from the delays that occurred in securing her 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

12. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

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