



DECISION TO STRIKE OUT

**Case nos. CH/00/5360, CH/00/5363, CH/01/7666, CH/01/7825, CH/01/8378,
CH/02/8900, CH/02/9983, CH/02/11245 and CH/02/12308**

**Slobodan POJUŽINA, Dušan POJUŽINA, Mila BARIČANIN, Vjera PUHALO, Olga JOTANOVIĆ,
Mijat BLATANČIĆ, Đurđa DOŠLO, Ibro PENAVA and Slavko ŠANTIĆ**

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

Case no. CH/01/8503

Mirko BOJANIĆ

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 June 2003, with the following members present:

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

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 apartments, but they none the less 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/00/5360 and CH/00/5363 Slobodan POJUŽINA and Dušan POJUŽINA

3. The applications were introduced on 11 July 2000 and registered on the same day.

4. The applicants are pre-war owners over real estate marked as cadastral lot no. 839/7 in the land registry entry no. 1977 of the Cadastral Municipality Dolac – Sarajevo, located at Ante Fijamenga St. no. 30, in Sarajevo, the Federation of Bosnia and Herzegovina (the "Federation"). The applications concern their attempts to regain possession over their pre-war real estate.

5. On 10 October 2000, the Chamber decided to join these two applications.

6. On 10 June 2002, the applicants informed the Chamber that on 21 September 2001 they had entered into possession of their property. They noted that while they withdraw their complaints in this respect, they would like to maintain their claims for compensation.

B. CH/01/7666 Mila BARIČANIN

7. The application was introduced on 2 July 2001 and registered next day.

8. The case concerns the applicant's attempt to repossess her pre-war apartment located at Kunovska St. no. 5, in Sarajevo, the Federation.

9. On 14 November 2001, the Chamber transmitted the application to the Federation for its observations on admissibility and merits under Articles 6 and 8 of the European Convention on Human Rights (the "Convention"), Article 1 of Protocol No. I to the Convention, and Article II(2)(b) of the Agreement.

10. On 14 December 2001, the respondent Party submitted its written observations on admissibility and merits.

11. On 15 February and 2 April 2002, the applicant informed the Chamber that she had entered into possession of her apartment. The applicant noted that while she withdraws her complaints in this respect, she would like to maintain her claim for compensation.

C. CH/01/7825 Vjera PUHALO

12. The application was introduced to the Chamber on 22 August 2001.

13. The case concerns the applicant's attempt to regain possession of her apartment located at Braće Bošnjića no. 5 in Mostar, the Federation.

14. On 30 September 2002, the applicant informed the Chamber that she had regained possession of her apartment, but that she would like to maintain her request for compensation. On 4 April 2003, the Federation confirmed that the applicant had been reinstated into her apartment on 30 August 2002.

D. CH/01/8378 Olga JOTANOVIĆ

15. The application was introduced on 5 November 2001 and registered on the same day.

16. The case concerns the applicant's attempt to repossess her pre-war apartment located at Mlade Bosne St. no. 69/1, in Sarajevo, the Federation.

17. On 9 December 2002, the applicant informed the Chamber that on 14 November 2002 she had entered into possession of her pre-war apartment. The applicant noted that the apartment is devastated and not suitable for living; therefore, she would like to maintain her claim for compensation.

E. CH/01/8503 Mirko BOJANIĆ

18. The application was introduced to the Chamber on 30 November 2001.

19. The case concerns the applicant's attempt to regain possession of his apartment located at Mire Popare no. 12 in Mostar, the Federation.

20. On 4 April 2003, the respondent Party informed the Chamber that the applicant had been reinstated into possession of his apartment on 8 March 2002, and it submitted the minutes of the reinstatement, signed by the applicant's representative.

21. On 22 May 2003, the applicant confirmed that he had regained possession of his apartment; however, he further wishes to maintain his claim for compensation.

F. CH/02/8900 Mijat BLATANČIĆ

22. The application was introduced on 15 February 2002 and registered on the same day.

23. The case concerns the applicant's attempt to repossess his apartment located at Antuna Hangija no. 9/1, in Sarajevo, the Federation.

24. On 29 April 2002, the applicant informed the Chamber that on 16 April 2002 he had entered into 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.

G. CH/02/9983 Đurđa DOŠLO

25. The application was introduced to the Chamber on 17 April 2002.

26. The case concerns the applicant's attempt to regain possession of her apartment located at Avenija no. 3/4 in Mostar, the Federation.

27. On 24 February 2003, the applicant informed the Chamber that she had regained possession of her apartment on 7 August 2002, and that she wishes to maintain her claims for compensation.

H. CH/02/11245 Ibro PENAVALA

28. The application was introduced on 2 July 2002 and registered on the same day.

29. The case concerns the applicant's attempts to regain possession of his apartment located at ulica Tina Ujevića no. 22 in Čapljina, the Federation.

30. On 22 April 2003, the Federation informed the Chamber that the applicant had been reinstated into possession of his pre-war house on 29 November 2002.

31. On 12 May 2003, the applicant's representative confirmed that the applicant had been reinstated into his apartment, but he further wishes to maintain his claims for compensation.

I. CH/02/12308 Slavko ŠANTIĆ

32. The application was introduced to the Chamber on 03 October 2002.

33. The case concerns the applicant's attempt to regain possession of his apartment located at Ulica Stjepana Radića no. 116 in Mostar, the Federation.

34. On 4 April 2003, the respondent Party informed the Chamber that the applicant had been reinstated into possession of his apartment on 4 November 2002, and it submitted the minutes of the reinstatement, signed by the applicant.

35. On 8 May 2003, the applicant confirmed to the Chamber that he had regained possession of his apartment, but that he also maintained his claims for compensation.

II. OPINION OF THE CHAMBER

36. 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."

37. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their property or apartments, 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.

38. 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).

39. Taking into account that the applicants have been reinstated into their property or apartments, 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).

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

III. CONCLUSION

41. For these reasons, the Chamber, unanimously,

**JOINS THE APPLICATIONS and
STRIKES OUT THE APPLICATIONS.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel