



DECISION TO STRIKE OUT

Case no. CH/01/6898

Maksuma IBRIŠEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 21 February 2001 and registered on the same day.
2. The applicant complained of her inability to repossess her real estate—a house, located at Ulica Đure Đakovića bb in Kiseljak, Federation of Bosnia and Herzegovina. The applicant is a co-owner of the mentioned real estate, with a one-seventh portion.
3. On 22 October 1998 the applicant submitted a claim to repossess her real estate to the Kiseljak Municipal Department for Geodetic, Property Law and Real Property Cadastre Affairs. The applicant also submitted a claim to repossess her property to the Commission for Real Property Claims of Displaced Persons and Refugees (“CRPC”).
4. On 21 March 2000 the CRPC issued a decision confirming that the applicant was a co-owner and co-possessor of the real estate and allowing her to repossess her property.
5. On 27 April 2000 the applicant requested enforcement of the CRPC decision.
6. On 26 June 2000 the Kiseljak Municipal Department for Geodetic, Property Law and Real Property Cadastre Affairs issued a procedural decision confirming the applicant as the owner of the real estate in question and allowing her to repossess it.
7. On 15 November 2001 the applicant was reinstated into possession of her real estate.
8. On 23 November 2001 the applicant submitted a letter informing the Chamber that she entered into possession of her real estate on 15 November 2001. She withdrew her claim to regain possession of her property before the Chamber. However, the applicant explicitly stated that she would like to maintain her request for compensation for pecuniary and non-pecuniary damages and for compensation for costs and expenses that she had incurred in the proceedings.

II. 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 ... (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 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. The Chamber further notes that although the applicant has been reinstated, she understandably asks the Chamber to find a violation of her rights protected by the Agreement due to the time that elapsed between her request for reinstatement into possession of her property and the actual repossession. She also asks the Chamber to order the respondent Party to pay compensation to her in recognition of the damage, both pecuniary and non-pecuniary, suffered by her during the course of that time.
11. 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).
12. Taking into account that the applicant has been reinstated into possession of her 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 applicant's request to nonetheless maintain her 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).

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

III. CONCLUSION

14. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel