



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/01/7440

Jovan BRATIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 2 July 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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 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 Articles VIII(2)(c) and 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 23 April 2001 and registered on 24 April 2001.
2. The case concerns the applicant's attempts to regain possession of and to register the ownership over his apartment, located at ulica Trg Heroja 22/IV in Sarajevo, the Federation of Bosnia and Herzegovina, which he purchased from the former JNA (Yugoslav National Army) Housing Fund on 13 February 1992.
3. On 7 November 2002 and 2 December 2002, the applicant submitted evidence that he had repossessed the apartment in question and received the order from the Federation Ministry of Defence to be registered as the owner over it. The applicant stated that he wished to maintain his claim for compensation for pecuniary damages in the amount of 200 Euros per month, beginning in the month he filed his claim to repossess the apartment until his actual repossession, and 25,000 Euros for the loss of moveable property from his apartment. He also sought compensation in the amount of 8,000 Euros for the expenses related to the proceedings, and finally, compensation for non-pecuniary damages in the amount of 7,500 Euros.

II. OPINION OF THE CHAMBER

A. Claim for loss of moveable property

4. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

5. Regarding the applicant's claim for the loss of moveable property from his pre-war apartment, the Chamber notes that the applicant has not shown that this alleged damage was directly caused by the respondent Party or any person acting on its behalf. Therefore, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

B. Claim for other compensation

6. 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 ... 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."

7. The Chamber notes that although the applicant has succeeded in repossessing the apartment in question and has obtained the order from the Federation Ministry of Defence to be registered as the owner over the apartment, he understandably asks the Chamber to order the respondent Party to pay compensation to him in recognition of the damage, both pecuniary and non-pecuniary, suffered by him during the course of the proceedings in question.

8. 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.

9. Taking into account that the applicant has repossessed the apartment in question and has received the order to be registered as the owner over it, 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 his 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).

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

III. CONCLUSION

11. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE IN PART and
STRIKES OUT THE REMAINDER OF THE APPLICATION.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel