



DECISION TO STRIKE OUT

Case no. CH/01/8421

B.B.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 June 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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 Article VIII(3)(c) of the Agreement and Rule 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 12 November 2001 and registered on the same day.
2. The case concerns the applicant's attempts to repossess his pre-war apartment, located at Ulica Zagrebačka 19/5 in Sarajevo, and to be registered as the owner of his apartment, which he had purchased from the former JNA (Yugoslav National Army) Housing Fund prior to the armed conflict.
3. The applicant informed the Chamber, in his letter received on 8 May 2003, that he has received an order from the Federation Ministry of Defence to be registered as the owner. As the order in question was delivered to the applicant five months after being issued, without any explanation for this delay, the applicant feels that the Federation Ministry of Defence has acted in bad faith and purposefully delayed his receipt of the order. For this reason, the applicant wishes to maintain his application before the Chamber.

II. OPINION OF THE CHAMBER

4. 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.”
5. The Chamber notes that the applicant lodged his application with a view to regaining possession of his apartment and registering himself as owner over the apartment in question, and while the case was still pending before the Chamber, he regained such possession and also received the order to be registered as the owner over the apartment. The Chamber further notes that although the applicant has repossessed and received the order, he understandably asks the Chamber to find a violation of his rights protected by the Agreement due to the fact that the order was not immediately delivered to him upon being issued; rather, the applicant received it five months after its issuance.
6. 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.
7. Taking into account that the applicant has repossessed the apartment and received the order to be registered as the owner over the apartment in question, albeit with some inexplicable delay, the Chamber considers that the ongoing alleged human rights violation has been brought to an end and the main issues of the application have been resolved. The Chamber recognises that valid reasons may underlie the applicant's request to nonetheless maintain his application before the Chamber. 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).
8. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3)(c) of the Agreement.

III. CONCLUSION

9. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel