



## **DECISION TO STRIKE OUT**

**Case no. CH/02/10478**

**Radovan STEVANOVIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting-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 Rule 52 of the Chamber’s Rules of Procedure:

## **I. INTRODUCTION**

1. The case concerns the applicant's attempts to regain possession of his pre-war apartment located at ul. Omladinska no. 2 in Sarajevo, the Federation of Bosnia and Herzegovina.

2. In 1998 the applicant submitted a request for repossession of the apartment. On 20 October 1998, the Administration for Housing Affairs of Sarajevo Canton (the "Administration") rejected this request. However, on 16 May 2002, the Administration established, *ex officio*, that R.Š. was using the applicant's apartment illegally and he was ordered to vacate the apartment in 15 days and to refer it to the Administration.

3. On 28 May 2002, the Commission for Real Property Claims of Displaced Persons and Refugees (the "CRPC") issued a decision recognising the applicant as the occupancy right holder of the apartment in question. On 25 July 2002, the applicant requested the Administration to enforce the CRPC decision. On 10 September 2002, the Administration issued a conclusion on enforcement of the CRPC decision.

4. On 4 October 2002 the applicant entered into possession of his apartment.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

5. The application was introduced on 10 May 2002 and registered on the same date.

6. In his application, the applicant complained that the authorities of the Federation of Bosnia and Herzegovina failed to decide upon his requests for reinstatement within the legally prescribed time limit. The applicant alleged that his rights under Articles 6 and 8 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention had been violated.

7. On 7 November 2002, the applicant submitted a letter informing the Chamber that he had entered into possession of his apartment on 4 October 2002. However, the applicant noted that he would like to maintain his claim for compensation because he was prevented from using the apartment when the authorities of the respondent Party intentionally prolonged the proceedings on repossession of the apartment. In addition, the applicant stated that he incurred expenses for his accommodation and legal expenses caused by the length of the proceedings before the domestic authorities.

## **III. OPINION OF THE CHAMBER**

8. 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."

9. The Chamber notes that the applicant lodged his application with a view to regaining possession of his apartment, and while the case was still pending before the Chamber, he regained such possession. The Chamber further notes that although the applicant has been reinstated, he understandably asks the Chamber to find a violation of his rights protected by the Agreement due to the time that elapsed between his request for reinstatement into possession of his pre-war apartment and the actual repossession. He also 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 that time.

10. 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).

11. Taking into account that the applicant has been reinstated into possession of his apartment, 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).

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

#### **IV. CONCLUSION**

13. 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