



DECISION TO STRIKE OUT

Case no. CH/02/12020

Desanka GAJIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
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 Article VIII(3)(c) of the Agreement as well as Rules 49 and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. This case concerns the applicant's attempts to regain possession of her pre-war apartment, located at ulica Višegradska 3 in Goražde, the Federation of Bosnia and Herzegovina.
2. On 7 October 1998, the applicant initiated a request for repossession of her pre-war apartment before the Administration of Housing Affairs (the "Administration"). The applicant finally regained possession of her apartment on 13 January 2003.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced to the Chamber on 7 August 2002 and registered on the same day. The applicant is represented by Budimir Heleta.
4. The applicant complains that her rights protected under Articles 8 and 13 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention have been violated. The applicant requests compensation for pecuniary damages in the amount of 5,000 KM (Convertible Marks), for non-pecuniary damages in the amount of 10,000 KM, and for the costs of the proceedings in the amount of 120 KM. She also asks the Chamber to order that an inventory list be made of her moveable property and that the temporary occupant be forbidden from using it.
5. On 3 February 2003, the applicant informed the Chamber that she had entered into possession of her apartment on 13 January 2003. The applicant noted that while she withdraws her complaints in this respect, she would like to maintain her claim for compensation.

III. OPINION OF THE CHAMBER

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 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."
7. The Chamber notes that the applicant lodged her application with a view to regaining possession of her apartment, 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 pre-war apartment 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, including compensation for the costs of the proceedings.
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. Moreover, significant progress in the return and property law implementation process in Bosnia and Herzegovina has occurred (*id.* at paragraphs 15-16).
9. Taking into account that the applicant has been reinstated into possession of her 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 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).

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

IV. CONCLUSION

11. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel