



## **DECISION TO STRIKE OUT**

**Case no. CH/02/8733**

**Fehim AJANOVIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 2002 with the following members present:

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

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 Article VIII(3)(b) and (c) of the Agreement and Rules 49(2) and 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 property, located at Kralja Tomislava 34/IV in Jajce, the Federation of Bosnia and Herzegovina.
2. On 5 June 1998 the applicant submitted the request for repossession of his property to the competent Jajce Municipality's Service for Housing and Communal Affairs. On 6 March 2000 the Municipality issued a procedural decision by which it confirmed the applicant's occupancy right and allowed him to return into his property. On 9 June 2000 the applicant requested forcible execution of that procedural decision. On 15 June 2000 the Municipality issued a conclusion allowing the forcible execution.
3. On 19 February 2002, the applicant entered into possession of his pre-war property.

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

4. The application was introduced on 24 January 2002 and registered on the same day.
5. On 22 March 2002, the applicant provided information to the Chamber that he had regained possession of his property on 19 February 2002. The applicant noted that while he withdraws his complaints in this respect, he would like to maintain his 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 ... (b) the matter has been resolved; or (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 his/her application with a view to regaining possession of his property, and while the case was still in the early phase of proceedings before the Chamber, he regained such possession.
8. It would be open to the Chamber to consider the admissibility and merits of a case, when, as in the present case, the question arises whether the time-limits and other procedural requirements prescribed by domestic law have been complied with by the authorities. If it found a violation, then the Chamber would address the question of whether any remedies should be ordered, including compensation.
9. However, as the Chamber explained in the case of *S.P.* (case no. CH/99/2336, decision to strike out of 2 July 2001, Decisions July—December 2001), the Chamber is not unmindful of the difficulties faced by the domestic authorities in implementing the property legislation in force in a timely manner. Consequently, where it appears that the domestic authorities have taken appropriate and effective action in good faith and where the applicants have in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application. Such a decision to strike out, however, will depend upon the circumstances of the particular case, including the stage the proceedings have reached when the Chamber is informed of the applicant's reinstatement. Nonetheless, the Chamber retains the option of proceeding to a decision on the merits of any particular case, provided the other facts of the case so warrant.
10. Turning to the facts of the present case, the Chamber notes that the applicant has been reinstated into possession of his property on 19 February 2002. That being so, the Chamber considers that the main issue raised in the application has been resolved. The Chamber further notes, however, that the applicant has expressed his intention to pursue the application before the Chamber in regard to his claim for compensation. The Chamber observes that it can only award

compensation if it makes a finding of a violation of the Agreement. The applicant has not drawn the Chamber's attention to any special circumstances regarding the respect for human rights which would require the examination of the application to be continued after the main issue raised in the application has been resolved, and the Chamber considers that no such special circumstances are present in this application. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3) of the Agreement.

**IV. CONCLUSION**

11. 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