



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/02/9373

Rade CVIJIC

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 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 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 case concerns the applicant's attempts to regain possession of his pre-war apartment, located at Ive Andrića no. 4 in Sarajevo, the Federation of Bosnia and Herzegovina.
2. On 26 January 1999 the applicant filed a request to repossess his pre-war apartment to the Administration for Housing Affairs of Canton Sarajevo (the "Administration").
3. On 6 February 2001, the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) issued a decision confirming the applicant's occupancy right.
4. On 27 March 2001, the applicant filed a request for execution of the CRPC decision to the Administration.
5. On 24 June 2002, the applicant entered into possession of his pre-war apartment.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 28 February 2002.
7. On 22 August 2002, the applicant informed Chamber that he had entered into possession of his apartment on 24 June 2002.
8. On 28 August 2002, the Chamber sent a letter to the applicant asking him whether he considers the matter resolved, and if not, whether he would like to continue with the proceedings and if so, on what grounds.
9. On 24 September 2002, the Chamber received a letter from the applicant in which he complains that he is a pensioner and that there is nothing remaining in his pre-war apartment.

III. OPINION OF THE CHAMBER

A. With respect to loss of moveable property

10. 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."

11. Regarding the applicant's claim for loss of moveable property from the apartment, the Chamber notes that this claim does not concern an interference with his rights under the Agreement by the authorities of any of the signatories to the Agreement. Moreover, the applicant has not provided any indication that the alleged loss of moveable property has been directly caused by the respondent Party or any person acting on its behalf, and it does not appear so to the Chamber. As a result, the respondent Party cannot be held responsible for this loss. It follows that this part of the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible.

B. With respect to reinstatement into possession

12. 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."

13. 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.

14. 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).

15. 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. 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).

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

IV. CONCLUSION

17. 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)
Michèle PICARD
President of the First Panel