



DECISION TO STRIKE OUT

Case no. CH/02/9526

Koviljka ĐOGOVIĆ

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, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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 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 in Nerkeza Smailagića no. 10, Sarajevo.
2. The applicant initiated proceedings before the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC"), and she obtained a CRPC decision recognizing her right to repossess the apartment in question on 3 April 2000. On 31 May 2000 she submitted a request for implementation of the CRPC decision.
3. At the same time the applicant initiated a request for repossession of her pre-war apartment to the Administration of Housing Affairs (the "Administration"). On 12 June 2001 the Administration issued a decision confirming the applicant's right to repossess the apartment. On 25 July 2001 the applicant submitted a request for execution of the decision issued on 12 June 2001.
4. The applicant finally regained possession of her apartment on 17 April 2002.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced to the Chamber on 14 March 2002 and registered on the same day.
6. The applicant complains that her rights protected under Articles 6 and 8 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention have been violated. At the time of her application, she claimed to be unable to obtain possession of her pre-war apartment, because the Administration had not executed the decision of 12 June 2001 or the CRPC decision of 3 April 2000.
7. The applicant asked the Chamber to order the respondent Party, as provisional measure, to reinstate her immediately into possession of her apartment. The applicant further submitted a claim for compensation for pecuniary damages in the amount of 300 KM (Convertible Marks) per month starting from 31 May 2000, and for lawyer's fees in the amount of 330 KM.
8. On 6 May 2002 the applicant informed the Chamber that she had regained possession of her apartment on 17 April 2002. 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

9. 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."
10. 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 pecuniary damage suffered by her during the course of that time, including compensation for lawyer's fees.
11. 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).

12. Taking into account that the applicant has been reinstated into possession of her property, 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).

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

IV. CONCLUSION

14. 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