



DECISION TO STRIKE OUT

Case no. CH/02/9876

Marica EVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 7 September 2002 with the following members present:

Mr. Giovanni GRASSO, 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 Article VIII(3)(b) and (c) of the Agreement and Rule 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The case concerns the applicant's attempts to be reinstated into a pre-war apartment (the "apartment"), located at ul. Triglavska no.50b. in Sarajevo, the Federation of Bosnia and Herzegovina, in which she has been a member of her brother's household.

2. The applicant submitted a request for reinstatement into the apartment on 23 July 1998. On 10 April 2001 the Administration for Housing Affairs of the Sarajevo Canton by its procedural decision confirmed occupancy right of Mr. I.B. and approved to the applicant, as the member of the household, repossession of the apartment. Temporary occupant of the apartment was ordered to vacate the apartment in 15 days with no right to alternative accommodation. On 25 April 2001 the applicant requested enforcement of the procedural decision seeking eviction of the illegal occupant. As she received no answer upon the request she addressed the Federal Ministry of Justice-the Administrative Inspection in Sarajevo on 27 February 2002, seeking intervention in her case as the procedural decision was not enforced.

3. On 29 July 2002 the applicant submitted a letter informing the Chamber that she entered into possession of her pre-war apartment on 8 July 2002. She withdrew her claim for regaining possession of the apartment before the Chamber. In addition the applicant explicitly stated that she maintained her request for compensation for pecuniary and non-pecuniary damage in the amount of 20.000 KM, and compensation for costs and expenses that she had incurred in the proceedings in the of 5000 KM.

4. The applicant claimed that her rights as guaranteed by Article 8 of the Convention and Article 1 of the Protocol 1 to the Convention have been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 8 April 2002 and registered on the same day.

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 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.

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 is established that the domestic authorities, albeit belatedly, have taken effective action and where the applicant has in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application, unless

there are particular reasons, apart from the delays in the reinstatement, that require continued consideration.

10. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of her apartment on 8 July 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/her intention to pursue the application before the Chamber in regard to his/her claim for compensation. The Chamber observes that it can only award compensation if it makes a finding of a violation of the Agreement. Apart from the delays that occurred in securing his/her reinstatement, 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. In the circumstances, the Chamber finds that it would not be inconsistent with the objective of respect for human rights to strike out the application. Consequently, the claim for compensation cannot be considered. 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)
Giovanni GRASSO
President of the Second Panel