



DECISION TO STRIKE OUT

Case no. CH/02/9924

Rosa PEJOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 12 April 2002 and registered on the same day.
2. The case concerns the applicant's attempts to regain possession of her pre-war apartment, located at Olovska no. 24, in Sarajevo, the Federation of Bosnia and Herzegovina.

II. FACTS

3. On 6 March 1998 the applicant submitted to the Commission for Property Claims of Refugees and Displaced Persons (the "CRPC") a request for reinstatement into possession of the apartment concerned.
4. On 26 August 1998 the applicant submitted to the Administration for Housing Affairs of the Sarajevo Canton (the "Administration") a request for reinstatement into possession of the apartment.
5. On 20 April 1999 the Administration issued a procedural decision confirming that M.P. (the applicant's husband) was the occupancy right holder over the apartment in question.
6. On 9 December 1999 the CRPC confirmed M.P.'s occupancy right over the apartment.
7. On 12 August 1999 the applicant submitted a request for execution of the Administration decision. He also submitted a request for execution of the CRPC decision on 13 March 2000.
8. On 9 May 2000 and 17 July 2000, the applicant addressed the Ministry of Justice of the Federation of Bosnia and Herzegovina and on 17 July 2000 and 5 November 2001 the Administration, seeking enforcement of the Administration and CRPC decisions.
9. On 14 June 2002 the applicant entered into possession of her pre-war apartment. 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

10. 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."

11. 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 she suffered.

12. 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).

13. Taking into account that the applicant has been reinstated into possession of his/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).

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

IV. CONCLUSION

15. 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