



DECISION TO STRIKE OUT

Case no. CH/98/1075

Dušan LAKETIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 2002 with the following members present:

Ms. Michèle PICARD, 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 to Article VIII(3)(b) 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 house, located at Ulica Butirska cesta no. 231, Butmir.
2. On 5 March 1998 the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") issued a decision confirming the applicant's occupancy right.
3. On 5 March 1998 the applicant submitted a request for execution of the CRPC decision to the Service of Abandoned Real Estates, Housing and Utility Affairs of Ilidža Municipality ("the Administration"). The procedural decision for enforcement of the CRPC decision was issued on 28 May 1998, recognising the applicant's occupancy right and deciding that the temporary occupant was obliged to leave the house within 90 days.
4. On 31 August 1998 the applicant applied to the Administration requesting execution of the procedural decision of 28 May 1998.
5. On 20 April 2001 the applicant entered into possession of his pre-war house.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 18 November 1998 and registered on the same day.
7. On 19 September 2001 the application was transmitted to the Federation of Bosnia and Herzegovina ("the Federation") under Article 8 of European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention. On 23 July 2001 the Federation submitted its observations on the admissibility and merits of the application and informed the Chamber that the applicant had been reinstated into his house on 20 April 2001.
8. On 3 October 2001 the applicant informed the Chamber that he had been reinstated into possession of his house. However, he considers that the matter has not been resolved since his house was dismantled and plundered by the temporary occupants. He further maintains his claims for compensation.
9. On 20 June 2002 the Chamber received the applicant's letter in which he states that he maintains his claims for compensation and requests the Chamber to order the Federation to pay, in addition, his costs for the proceedings and court taxes.

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 ... (b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights."
11. The Chamber notes that the applicant lodged his application with a view to regaining possession of his house, and while the case was still pending before the Chamber, he regained such possession.
12. 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.

13. 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.

14. Turning to the facts of the present case, the Chamber notes that the applicant has been reinstated into possession of his house on 20 April 2001. 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 claims 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

15. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar

(signed)
Michèle PICARD
President of the First Panel