



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/98/588

M.J.

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 June 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

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)(a) and VIII(3)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application concerns the applicant's claim for repossession of her pre-war apartment, located at Ismeta Mujezinovića Str. no. 22 in Sarajevo, and her claim for repossession of a garage located in the same residential block.
2. The garage in question was allocated to the applicant's husband, L.J.J., by a procedural decision of 31 October 1985. On the same day, L.J.J. concluded a contract on use of the garage with the former JNA (Yugoslav National Army) Housing Fund.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced with the Chamber on 24 April 1998.
4. On 29 November 2002, the applicant informed the Chamber in writing that she had entered into possession of her pre-war apartment but not into possession of the garage.
5. On 17 December 2002 and 13 February 2003, the Chamber sent a letter to the applicant requesting her to submit copies of all relevant documents relating to the proceedings initiated before the domestic organs to regain possession of the garage.
6. On 10 March 2003, the applicant replied that she had not addressed domestic organs with a repossession claim for the garage, as nobody instructed her to whom she should address such a claim.

III. OPINION OF THE CHAMBER

A. Claim for repossession of the pre-war apartment

7. 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."
8. The Chamber notes that the applicant has informed it that she has succeeded in repossessing her pre-war apartment. That being so, the Chamber considers that the main issue raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require examination of this part of the application to be continued. The Chamber therefore decides to strike out this part of the application pursuant to Article VIII(3)(b) of the Agreement.

B. Claim for repossession of the garage

9. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"
10. The Chamber notes that the applicant has not yet repossessed the garage in question. However, the applicant has informed the Chamber that she has not initiated any proceedings before the domestic bodies to pursue such repossession. Therefore, the Chamber finds that the domestic remedies have not been exhausted, as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

IV. CONCLUSION

11. 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)
Mato Tadić
President of the Second Panel