



DECISION TO STRIKE OUT

Case no. CH/98/727

Milenko KOSTOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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 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 his pre-war house, located in Sarajevo, ulica Viteška 1.
2. On 29 January 1998 the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) issued decision establishing the applicant's right to repossess his pre-war house. On 9 December 1998 the applicant initiated proceedings before the Municipal Court in Sarajevo against the Municipality Novi Grad, aimed at obtaining compensation for the damage caused due to his inability to regain possession of his house. The applicant finally regained possession of his house on 11 August 1999.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 29 June 1998 and registered on the same day.
4. On 30 November 1998 the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Articles 6, 8, of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention.
5. The respondent Party submitted its observations on 28 January 1999.
6. On 15 November 1999 the applicant requested the Chamber to grant him compensation for the damage caused due to his inability to regain possession of his house.
7. On 26 May 2000 the respondent Party submitted additional observations in which it suggested that the Chamber strike out the application because the matter has been resolved. In these additional observations, the respondent Party stated that the applicant had withdrawn his action before the domestic court for compensation on 1 December 1999.
8. On 16 August 2002 the applicant asked the Chamber to order the respondent Party to pay him 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 his application with a view to regaining possession of his property, and while the case was still pending before the Chamber, he regained such possession. The Chamber further notes that although the applicant has been reinstated, he understandably asks the Chamber to find a violation of his rights protected by the Agreement due to the time that elapsed between his request for reinstatement into possession of his pre-war property and the actual repossession. He also asks the Chamber to order the respondent Party to pay compensation to him in recognition of the damage suffered by him during the course of that time.
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 his 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 his 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)
Michèle PICARD
President of the First Panel