



DECISION TO STRIKE OUT

Case no. CH/98/729

Ibrahim KAHRIĆ

against

REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 December 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice President
Mr. Hasan BALIĆ
Mr. Dietrich RAUSCHNING
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)(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 property, located in Rovine no. 95, the Municipality Gradiška, the Republika Srpska.
2. On 24 April 1998 the applicant initiated proceedings before Ministry for Refugee and Displaced Person of the Republika Srpska to regain possession of his property. The Law on Cessation of the Application of the Law on the Use of Abandoned Property entered into force on 19 December 1998. The applicant finally regained possession of his property on 1 June 2000.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 25 June 1998 and registered on 29 June 1998.
4. On 23 September 1998 the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Articles 6, 8, 13 and 14 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention.
5. On 19 March 1999 the Respondent Party submitted the observations which were transmitted to the applicant on 20 April 1999.
6. On 28 April 1999 the applicant submitted the request for compensation for pecuniary and non-pecuniary damage in amount of 15.500 KM (konvertible marks).
7. On 6 August 2001 the applicant informed the Chamber that the he had been reinstated into the apartment in question but he requested compensation.
8. On 12 September 2002 the respondent Party informed the Chamber that the applicant has been in possession of the property for more than two years. The Registry sent a letter to the applicant asking him whether he had resolved his case and whether he wanted to continue the proceedings before the Chamber. The applicant never replied. According to the return receipt, he received this letter on 20 September 2002.

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, both pecuniary and non-pecuniary, 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