



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/98/789

D.V.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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 Articles VIII(2)(c) and VIII(3)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application was introduced on 21 July 1998. The applicant complained of her inability to repossess her pre-war apartment, located at Kečina no. 12 - a, in Sarajevo.
2. The Chamber was informed by the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), that the applicant had been reinstated into her apartment. The Chamber sent a letter to the applicant asking her to confirm her reinstatement.
3. On 24 May 2002, the applicant confirmed that she had succeeded to enter into possession of the above-mentioned apartment. However, the applicant complains about civil proceeding pending before the Municipality Court in Sarajevo. The applicant states that the temporary occupant filed suit against her for compensation for monetary resources he invested in the apartment in question while he temporary occupied it during the armed conflict. The applicant asks for the Chamber's assistance in respect to these proceedings.

II. OPINION OF THE CHAMBER

A. Concerning the applicant's request for repossession

4. 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 result is consistent with the objective of respect for human rights".
5. Considering that the applicant has repossessed her pre-war apartment, as confirmed by her, the Chamber finds that the matter raised in the application concerning the applicant's request for repossession has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of this part of the application to be continued. The Chamber, therefore, decides to strike out this part of the application.

B. Concerning the applicant's complaints about the civil proceeding against her

6. 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: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."
7. The Chamber notes that the applicant complains about civil proceedings pending before the Municipal Court in Sarajevo initiated by the temporary occupant of her pre-war apartment against her. As the applicant contests the possibility to initiate a private dispute, the Chamber finds that the facts complained of do not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

III. CONCLUSION

8. 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)
Ms. Michèle PICARD
President of the First Panel