



DECISION TO STRIKE OUT

Case no. CH/99/1518

Ranko ĆEBIĆ

against

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

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

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

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 Article VIII(3) 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 apartment, located at Ulica Džamijska no. 13/VIII, in Sarajevo.
2. On 13 June 1996, the applicant's apartment was declared permanently abandoned and allocated to another person.
3. On 30 September 1997, the applicant submitted a request for reinstatement into possession of the apartment to the Administration for Housing Affairs of Canton Sarajevo ("the Administration"). On 26 November 1997, the Administration rejected his request.
4. On 13 February 1997, the applicant appealed against this decision to the Ministry for Urban Planning, Housing and Communal Affairs of Canton Sarajevo.
5. On 22 April 1998, based on the new Law on Cessation of Application of the Law on Abandoned Apartments, the applicant submitted a new request to the Administration. On 1 July 1998, the Administration issued a procedural decision confirming the applicant's occupancy right but also considering that the current user was legally occupying the apartment, leaving the final decision about reinstatement to the competent Cantonal organ. The applicant appealed against this procedural decision.
6. On 28 January 1999, the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") issued a decision confirming the applicant's occupancy right.
7. On 13 September 1999, the Administration issued a new procedural decision that annulled the previous one, confirmed the applicant's occupancy right, and stated that the current occupant was obliged to leave the apartment within 15 days.
8. On 4 May 2000, the applicant entered into possession of his pre-war apartment.

II. PROCEEDINGS BEFORE THE CHAMBER

9. The application was introduced on 29 January 1999 and registered on the same day.
10. On 7 April 2000, the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits under Article 6 and 8 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention.
11. On 7 June 2000, the respondent Party provided information to the Chamber that the applicant had regained possession of his apartment. The applicant confirmed that he entered into possession of his apartment on 4 May 2000. The applicant noted that while he withdraws his complaints in this respect, he would like to maintain his claim for compensation.

III. OPINION OF THE CHAMBER

12. 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; or (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."
13. The Chamber notes that the applicant lodged his application with a view to regaining possession of his apartment, and, while the case was still pending before the Chamber, he regained such possession.

14. 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, the Chamber would then address the question of whether any remedies should be ordered, including compensation.

15. 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 is established that the domestic authorities have taken effective action and where the applicant has in fact been reinstated, although not within the time-limit established by law, the Chamber may be persuaded to strike out an application, unless there are particular reasons, apart from the delays in the reinstatement, that require continued consideration.

16. Turning to the facts of the present case, the Chamber notes that the applicant was reinstated into possession of his apartment on 4 May 2000. 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 claim for compensation. The Chamber observes that it can only award compensation if it makes a finding of a violation of the Agreement. Apart from the delays that occurred in securing his reinstatement, 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. In the circumstances, the Chamber finds that it would not be inconsistent with the objective of respect for human rights to strike out the application. Consequently, the claim for compensation cannot be considered.

17. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3) of the Agreement.

IV. CONCLUSION

18. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel