



DECISION TO STRIKE OUT

Case no. CH/99/2373

Jasna IGNJATIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 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 Article VIII(3)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure.

I. INTRODUCTION

1. The application was introduced on 29 September 1999 and registered on the same day.
2. The case concerns the applicant's attempts to regain possession of her pre-war apartment, located at Zije Dizdarevića no. 24, in Zenica, the Federation of Bosnia and Herzegovina.

II. FACTS

3. On 5 May 1998, the applicant submitted a request for reinstatement into possession of her pre-war apartment to the Municipal Secretariat for Administration of Zenica Municipality ("the Secretariat").
4. On 22 October 1998, the Secretariat issued a procedural decision rejecting the applicant's request as ill-founded.
5. On 4 March 1999, the Commission for Real Property Claims of Displaced Persons and Refugees ("the CRPC") issued a decision confirming that the applicant was an occupancy right holder over the apartment in question.
6. The applicant appealed against the procedural decision of Secretariat. On 13 May 1999, the Ministry for Urbanism, Physical Planning and the Environment of Zenica – Dobož Canton ("the Ministry") refused the appeal.
7. On 7 October 1999, the Service for Administration and Housing Affairs of Zenica Municipality ("the Administration") issued a conclusion suspending the repossession proceedings initiated by the applicant.
8. On 15 July 1999, the applicant initiated an administrative dispute against the Ministry's decision of 13 May 1999. The Cantonal Court issued a procedural decision on 27 September 1999, rejecting the applicant's administrative dispute.
9. On 13 October 1999, the applicant submitted a request for enforcement of the CRPC decision. On 5 May 2000, the Administration issued a conclusion on enforcement of the CRPC decision.
10. On 3 October 2000, the applicant entered into possession of her pre-war apartment. The applicant noted that while she withdraws her complaints in this respect, she would like to maintain her claim for compensation.

III. OPINION OF THE CHAMBER

11. 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."
12. The Chamber notes that the applicant lodged her application with a view to regaining possession of her apartment, and while the case was still pending before the Chamber, she regained such possession. The Chamber further notes that although the applicant has been reinstated, she understandably asks the Chamber to find a violation of her rights protected by the Agreement due to the time that elapsed between her request for reinstatement into possession of her pre-war apartment and the actual repossession. She also asks the Chamber to order the respondent Party to pay compensation to her in recognition of the damage, both pecuniary and non-pecuniary, suffered by her during the course of that time.

13. 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).

14. Taking into account that the applicant has been reinstated into possession of her apartment, 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 her 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).

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

IV. CONCLUSION

16. 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