



## **DECISION TO STRIKE OUT**

**Case nos. CH/01/7354 and CH/01/7357**

**Dorđo BRČIN and Milena AČIMOVIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 February 2003 with the following members present:

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

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 Article VIII(3)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

## **I. INTRODUCTION**

1. The cases concern the applicants' attempts to regain possession of their pre-war property located within the territory of the Federation of Bosnia and Herzegovina.

## **II. FACTS**

### **1. Case no. CH/01/7354 Đorđo BRČIN**

2. The applicant is the occupancy right holder of an apartment located at Patriotske lige no. 63 in Bosanska Krupa. On 26 October 1999, the applicant submitted a request for repossession of his property to the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC"). On 8 June 1999, the CRPC issued a decision confirming the applicant's occupancy right over his pre-war apartment. On 9 October 2000, the applicant filed a request for execution of the CRPC decision to the Department for Property-Legal Issues and Housing Affairs of Bosanska Krupa Municipality (Odjel za imovinsko-pravne i stambeno-komunalne poslove).

3. On 2 April 2002, the applicant entered into possession of his pre-war apartment.

### **2. Case no. CH/01/7357 Milena AČIMOVIĆ**

4. The applicant is the occupancy right holder of an apartment located at Sjepana Radića 90 in Mostar. On a date unknown to the Chamber, the applicant submitted a request for repossession of her property to the CRPC. On 28 October 1999, the CRPC issued a decision confirming the applicant's occupancy right over her pre-war apartment. On 16 February 2000, the applicant filed a request for execution of the CRPC decision to the Department for Building, Urban Planning, Housing and Utilities of Mostar-West Municipality (Odjel graditeljstva, prostornog uređenja i stambeno-komunalnih poslova).

5. On 10 January 2002, the applicant entered into possession of her pre-war apartment.

## **III. PROCEEDINGS BEFORE THE CHAMBER**

6. The applications were introduced on 30 March and 3 April 2001, respectively, and registered on the date on which they were submitted.

7. On 23 May 2001, the Chamber transmitted the applications to the respondent Party for its observations on the admissibility and merits under Articles 6, 8 and 14 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention. On 23 July 2001, the respondent Party submitted its observations.

8. On 5 September 2002 and 21 February 2002, the respondent Party submitted information to the Chamber that the applicants had regained possession of their property.

9. On 18 July 2002 and 12 August 2002, the applicants submitted information to the Chamber that they had regained possession of their pre-war property on 2 April 2002 and 10 January 2002, respectively. Both applicants noted that while they withdraw their complaints in this respect, they would like to maintain their claims for compensation.

## **IV. OPINION OF THE CHAMBER**

10. 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.”

11. The Chamber notes that the applicants lodged their applications with a view to regaining possession of their property, and while the cases were still pending before the Chamber, they regained such possession. The Chamber further notes that although the applicants have been reinstated, they understandably ask the Chamber to find a violation of their rights protected by the Agreement due to the time that elapsed between their request for reinstatement into possession of their pre-war property and the actual repossession. They also ask the Chamber to order the respondent Party to pay compensation to them in recognition of the damage, both pecuniary and non-pecuniary, suffered by them during the course of that time.

12. 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).

13. Taking into account that the applicants have been reinstated into possession of their property, the Chamber considers that the ongoing alleged human rights violations have been brought to an end and the main issue of each application has been resolved. The Chamber recognises that valid reasons may underlie the applicants’ requests to nonetheless maintain their claims 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[s]” 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).

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

#### **IV. CONCLUSION**

15. For these reasons, the Chamber, unanimously,

#### **STRIKES OUT THE APPLICATIONS.**

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Mato TADIĆ  
President of the Second Panel