



DECISION ON ADMISSIBILITY

Case no. CH/99/2930

Naila HAMZIĆ

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 November 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK

Mr. Anders MÅNSSON, 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 (2) of the Agreement as well as Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant is a displaced person from Bijeljina, Republika Srpska. In the middle of the 1990s the applicant moved into an apartment in Sarajevo, Federation of Bosnia and Herzegovina. The applicant alleges that she owns two houses in the Republika Srpska to which she desires to return. There is no evidence whether the applicant initiated any proceedings before the competent organs of the Republika Srpska regarding the return of her property.

2. On 23 September 1999 the applicant received a decision of the Administration for Housing Affairs of the Canton Sarajevo by which the occupancy right of her current apartment was given to the pre-war occupant of the apartment. The decision also ordered the applicant's eviction.

3. On 27 September 1999 the applicant filed an appeal with the Cantonal Ministry for Housing Affairs against the mentioned decision. No decision has been issued regarding the appeal.

II. COMPLAINTS

4. The applicant alleges violations of her rights to respect for her home under Article 8 of the European Convention on Human Rights and to property under Article 1 of Protocol No. 1 of the Convention in respect of both her property in the Republika Srpska and her current residence in Sarajevo. She also claims that her right to liberty of movement and residence, as guaranteed by Article 2 of Protocol No. 4 to the Convention, has been violated in regard to her return to the Republika Srpska.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 28 September 1999 and registered on the following day.

6. In her application the applicant included a request for provisional measures. The Chamber refused this request on 6 October 1999.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of the case the Chamber must decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. Further, according to Article VIII(2)(c), the Chamber will also dismiss any complaint which it considers manifestly ill-founded.

8. The applicant states that the Republika Srpska has denied her the right to her home in the Republika Srpska. However, the applicant is obliged to pursue her complaint before the relevant domestic authorities before the Chamber may consider it. It does not appear, however that she availed herself of the various remedies available in the Republika Srpska to attempt to regain her property. Further, the applicant made no showing that the domestic remedies available to her would be ineffective.

9. The applicant further alleges that the Federation is denying her right to home and property with respect to her current apartment. However, the applicant currently has an appeal pending before the Cantonal Ministry for Housing Affairs in Sarajevo regarding this apartment. Therefore, the applicant has not exhausted the domestic remedies available to her. Further, the applicant made no showing that such domestic remedies would be ineffective.

10. Accordingly, with respect to the claim that she has been denied her right to her home and property in both the Federation and the Republika Srpska, the Chamber decides not to accept the application pursuant to Article VIII(2)(a) of the Agreement as the applicant has not demonstrated that

effective domestic remedies have been exhausted.

11. With respect to her claim that she has been denied her liberty of movement, i.e. to return to the Republika Srpska and visit her home, this claim is directed against both the Federation and the Republika Srpska. However, the applicant has not given any evidence to show a link between the alleged human rights violations and the actions of the Federation.

12. Similarly, regarding the Republika Srpska, the applicant has presented no evidence that that entity has taken any actions that would prohibit her from entering the Republika Srpska and visiting her home.

13. Accordingly, the Chamber decides not to accept the application with respect to the claim that the applicant has been denied her liberty of movement, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

14. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel