



DECISION ON ADMISSIBILITY

Case no. CH/99/3142

Hanija ŠITO

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 11 January 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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

I. FACTS

1. The applicant is a temporary user of a house in Hrasnica, Iliđža, Izeta Nanića Street No. 28 (formerly Alekse Šantića Street No. 20), Federation of Bosnia and Herzegovina. She and her family are displaced persons from Kalinovik, Republika Srpska, and they have lived in the house in Hrasnica since 1993.

2. By a final and binding judgement of the Cantonal Court in Sarajevo of 20 May 1998 the applicant was obliged to vacate the house, which is owned by Mr. Četković Dobrisav, within 15 days of receipt of the judgment.

3. On 31 December 1998, enforcing the Cantonal Court's judgment, the Municipal Court II in Sarajevo decided to order the applicant's eviction. The applicant appealed but, on 19 May 1999, the Municipal Court upheld its decision and thus confirmed the eviction. On 2 November 1999 the court scheduled the eviction for 9 November 1999 but, according to the application and enclosed documents, the eviction did not take place.

4. The applicant alleges that her husband and son died during the war and that her late husband was the owner of a house in Kalinovik, where they lived before the war. On 9 July 1997 the applicant submitted a claim for reinstatement into that house to the Commission for Real Property Claims but she has not yet received an answer. The applicant also submitted a similar request to the municipality Kalinovik in September 1999, but she has not received an answer to that request either.

5. On 28 June 1999 the applicant submitted a request for protection of her rights as a displaced person to the Cantonal Ministry for Refugees and Displaced Persons of Sarajevo Canton, seeking alternative accommodation. It appears that also this request remains unanswered.

II. COMPLAINTS

6. The applicant alleges violations of her right to respect for her home under Article 8 of the European Convention on Human Rights and her right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the Convention. She also alleges a violation of her right to freedom of movement, as she cannot visit the house in Kalinovik, located in the territory of Republika Srpska.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was submitted on 10 November 1999 and registered on the next day. The applicant requested the Chamber to issue a provisional order to stop the eviction.

8. On 12 November 1999 the Vice-President of the Chamber rejected the request for a provisional measure.

9. The Chamber considered the case on 9 December 1999 and on 11 January 2000. On the last mentioned date it adopted the present decision.

IV. OPINION OF THE CHAMBER

10. 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)(b), the Chamber shall not address any application if it concerns a matter currently pending before any other international human rights body responsible for the adjudication of applications or the decision of the cases, or any other Commission established by the Annexes to the General Framework Agreement for Peace. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

11. The applicant complains that her right to respect for her home under Article 8 of the Convention has been violated. The Chamber notes that the applicant was ordered to vacate the

apartment in favour of the owner of the house. In these circumstances, the Chamber finds that the decision in question had justifiable reasons under Article 8 of the Convention. It therefore considers this part of the application to be manifestly ill-founded.

12. As to the applicant's allegation that she cannot regain possession of her house in Kalinovik, Republika Srpska, and that her right under Article 1 of Protocol No. 1 of the Convention has been violated, the Chamber notes that, insofar as the application is directed against the Republika Srpska, the same matter is pending before the Commission for Real Property Claims, which Commission is established under the Annex 7 to the General Framework Agreement for Peace. The Chamber therefore finds that this matter is substantially the same as the matter currently pending before another Commission established by the Annexes to the General Framework Agreement for Peace.

13. Accordingly, the Chamber decides not to accept the application, it being partly manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement and partly substantially the same as a matter currently pending before another Commission established by the Annexes to the General Framework Agreement for Peace, insofar as the application is directed against the Republika Srpska, pursuant to Article VIII(2)(d) 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