



DECISION ON ADMISSIBILITY

Case no. CH/98/1789

Dragica GADŽA

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 February 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ

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) and (3) of the Agreement and Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina of Croat descent, resident in Banja Luka. Until October 1995 she lived in a property in Franje Seferina Street in Banja Luka, of which she is a part owner. She was evicted from it by displaced persons from Jajce, in the Federation of Bosnia and Herzegovina.

2. On 22 December 1995 the applicant initiated proceedings against the occupants of the property before the Court of First Instance ("*Osnovni Sud*") in Banja Luka, seeking their eviction from the property. On 5 February 1996 the court ordered the occupants, as a provisional measure, to vacate the property. This order was not complied with. On 23 July 1996 the court issued its decision on the merits of the case, and ordered the occupants to vacate the property. An appeal by the occupants was rejected by the Regional Court on 17 October 1996.

3. In pursuance of the orders of the court, the eviction of the occupants was scheduled on a number of occasions between 5 February 1996 and 1 July 1998. However, none of these attempts was successful for various reasons, including the failure of the police to assist in carrying out the eviction, the appearance of hostile crowds seeking to obstruct the eviction and the interference of the Ministry for Refugees and Displaced Persons in the matter. On 14 December 1998 the applicant regained possession of the property, as the occupants moved out voluntarily. They had been offered alternative accommodation by the office of the United Nations High Commissioner for Refugees. The applicant informed the Chamber of this fact on 5 November 1999.

II. COMPLAINTS

4. The applicant complains of a violation of her right to respect for her home, as guaranteed by Article 8 of the European Convention on Human Rights. She also states that her right to peaceful enjoyment of her possessions, under Article 1 of Protocol No. 1 to the Convention, has been violated. In addition, she claims that she has been discriminated against in the enjoyment of the above rights on the basis of her Croat origin.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application, which bears the date 8 October 1998, was introduced on 21 December 1998 and registered on the same day. On 19 March 1999 the application was transmitted to the respondent Party for its observations on the admissibility and merits of the case. No observations have been received from the respondent Party.

6. On 4 August 1999 the applicant was asked to submit her further observations and any claim for compensation or other relief she wished to make. On 22 October 1999 the Chamber sent the applicant a reminder by registered post, as no reply had been received to its earlier letter. This letter informed her that if she did not reply, her case might be struck out of the Chamber's list. Her reply was received on 5 November 1999. In this letter, she informed the Chamber that she had regained possession of the property and requested compensation for certain matters relating to her attempts to regain possession.

IV. OPINION OF THE CHAMBER

7. According to Article VIII(3) of the Agreement, the Chamber may decide to strike out an application if, *inter alia*, the matter has been resolved. Such a decision, however, must be consistent with the objective of respect for human rights.

8. The Chamber notes that the applicant regained possession of the property concerned in the application on 14 December 1998. Her initial complaint concerned her failure to do so. Accordingly, this part of the application has been resolved. The Chamber therefore considers that it is no longer

justified to continue with its examination of this part of the application. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

9. As regards the remainder of the application, the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

10. The applicant complained that she had been discriminated against in the enjoyment of certain of her rights as guaranteed by the Agreement on the basis of her Croat origin.

11. Concerning the alleged discrimination, the applicant has not submitted any evidence to support this allegation. In addition, the Chamber has no evidence that any person or authority for whose actions the respondent Party is responsible has discriminated against the applicant in the enjoyment of any of her rights as guaranteed by the Agreement. Accordingly, this allegation must be dismissed as unsubstantiated.

12. Accordingly, the Chamber decides not to accept the remainder of the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

**STRIKES OUT THE PART OF THE APPLICATION RELATING TO THE APPLICANT'S
POSSESSION OF HER PROPERTY; AND**

DECLARES THE REMAINDER OF THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel