



DECISION ON ADMISSIBILITY

Case no. CH/99/3407

Silvija KELECIJA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina of Roma origin. Before the war she resided in Mostar at Put za Opine no. 8. At the beginning of the war the building in which she lived was entirely devastated and she moved to Germany. Upon her return, she started the reconstruction of the whole ground floor of the building in which her apartment had been located. The applicant submits that the Municipality Stari Grad in Mostar, which is the owner of the apartments in the building, did not demonstrate any willingness to reconstruct these apartments and that she did not have any other possibility to provide accommodation for her family but to reconstruct her pre-war home.

2. By a procedural decision of the Municipal Urban Construction Inspector dated 17 August 1999 the applicant was ordered to demolish the illegally constructed part of the building so as to restore it to its previous state. The decision also stated that if the applicant failed to carry out the demolition herself it would be enforced by the municipality.

3. The applicant did not appeal against the procedural decision nor did she use any other remedies, because she hoped that the demolition would not take place. She also states that she did not know that she could appeal against the procedural decision.

4. The reconstructed part of the building was demolished on 24 December 1999.

II. COMPLAINTS

5. The applicant alleges that her right to respect for her home under Article 8 of the European Convention on Human Rights has been violated and that she has been discriminated against in the enjoyment of that right on the ground of her belonging to the Roma ethnic group.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was submitted on 23 December 1999 through the Mostar office of the Organisation for Security and Co-operation in Europe and registered by the Chamber on the same day. The applicant requested the Chamber to issue a provisional order preventing the demolition. On the same day the Chamber decided to refuse her request.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of the case 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)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.

8. The Chamber notes that the applicant has not sought to avail herself of any legal remedies available to her at the national level. In particular, she did not appeal against the procedural decision ordering the demolition. Further, she has not claimed that such remedies are ineffective. As the Chamber is not in possession of any evidence which would lead it to conclude, on its own motion, that the remedies available to the applicant are ineffective, it therefore finds that domestic remedies have not been exhausted.

9. Accordingly, the Chamber decides not to accept the application, as the applicant has failed to exhaust domestic remedies.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel