



DECISION ON ADMISSIBILITY

Case no. CH/99/3075

Senija FAZLIBEGOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 March 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, was a temporary user of an apartment in Sarajevo, Merhemića trg No. 15/III, according to a decision on temporary allocation dated 27 January 1995, issued by the Municipality Sarajevo, Secretariat for Housing Affairs.

2. Thereafter, D.K., the pre-war occupancy right holder of the apartment, initiated administrative proceedings before the Administration for Housing Affairs of the Canton Sarajevo requesting reinstatement into possession of the apartment. By a decision of 24 August 1999 the Administration confirmed the occupancy right of D. K., annulled the decision of 27 January 1995 and ordered the applicant to vacate the apartment within 15 days of the date of the decision. The applicant was provided with alternative accommodation. The decision stated that an appeal had no suspensive effect.

3. On 8 October 1999 the applicant appealed against the decision of 24 August 1999 to the second instance organ, the Cantonal Ministry for Urban Planning, Housing and Utility Affairs. The applicant states that she has not received any answer to the appeal. However, on 23 September 1999 the Administration issued an eviction order against the applicant. The eviction was scheduled for 29 October 1999 and it was carried out on the same date.

II. COMPLAINTS

4. The applicant complains that the Administration for Housing Affairs wrongly applied provisions of the Law on the Cessation of the Application of the Law on Abandoned Apartments ordering her to vacate the apartment within 15, rather than 90, days. The applicant further alleges a violation of her right to respect for her home under Article 8 of the European Convention on Human Rights.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 28 October 1999 and registered on the same day. The applicant requested the Chamber to issue a provisional order to postpone the eviction. On 29 October 1999 the President of the Chamber refused the request.

IV. OPINION OF THE CHAMBER

6. 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)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

7. The Chamber notes that the applicant was ordered to vacate the apartment in favour of the pre-war occupancy right holder and that, furthermore, she was provided with alternative accommodation. She was ordered to vacate the apartment within 15 days in accordance with Article 3 paragraph 4 of the Law on the Cessation of the Application of the Law on Abandoned Apartments. In these circumstances, the Chamber finds that the decision of 24 August 1999 had justifiable reasons as it was issued in accordance with the law and was necessary in a democratic society for the protection of the rights and freedoms of others under Article 8 paragraph 2 of the Convention. Consequently, there is no evidence of a violation of the applicant's rights.

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

V. CONCLUSION

9. 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