



DECISION ON ADMISSIBILITY

Case no. CH/00/5147

Zakira DELIBAŠIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 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) 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. On 1 December 1994 the applicant was allocated an apartment for temporary use located at Ulica Sarajevska br. 73/III (formerly Ulica Hasana Brkića) in Zenica. In 1998 the pre-war occupancy right holder over the apartment, H.P., began proceedings to repossess the apartment before the Zenica municipality.
2. After various proceedings, on 6 April 2000 the Municipality confirmed H.P.'s occupancy right, terminated the applicant's right to temporary use and ordered the applicant to vacate the apartment within 15 days. The applicant filed complaints against this decision on 9 May and 2 June 2000. It does not appear that these complaints have been decided. It should be noted that the decision of 6 April 2000 states that any further complaints against the decision do not have suspensive effect.
3. On 13 May 2000 the Municipality concluded that the applicant should be evicted as he had not left the apartment within the prescribed time-limit. As previously, it was stated that any appeals against this decision would not suspend its enforcement. Regardless, the applicant complained against this decision on 6 June 2000, but it is not known if this has been decided. The eviction was scheduled for 6 July 2000. It is not known if the applicant still occupies the apartment.

II. COMPLAINTS

4. The applicant complains that the decision to terminate her right to the apartment is a violation of her right to respect for her home as protected by Article 8 of the European Convention on Human Rights. She further asserts her right to respect for her home has been violated because her complaints against the Municipality's decisions did not suspend the effects of those decisions.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 20 June 2000 and registered the following day. In her application the applicant requested as a provisional measure that the Chamber render an order that she not be evicted. The Chamber refused this request on 4 July 2000.

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) of the Agreement, the Chamber shall dismiss any application which it considers manifestly ill-founded.
7. With respect to the applicant's complaint about the decision to terminate her right to the apartment, the Chamber notes that her right to use the apartment was only of a temporary nature. The Zenica Municipality has ordered its return to the pre-war occupancy right holder. Accordingly, she no longer has any right to occupy the apartment under the relevant laws.
8. As to the applicant's assertion that her rights were also violated because her complaints against the relevant Municipality decisions did not suspend the effect of those decisions, the Chamber notes that, like the decision to terminate her right to use the apartment, these holdings were made in accordance with relevant laws. In these circumstances, the Chamber cannot find that the applicant's rights as protected by the Agreement have been violated.
9. 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

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