DECISION ON ADMISSIBILITY

Case no. CH/00/4864

Aida HASANBAŠIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 September 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. Before the war in Bosnia and Herzegovina she had lived with her husband and his family in Gradačać. Apparently her husband was killed during the war.

2. On 27 December 1996 the Gradačać Municipality allocated the apartment at Ulica Hasana kikića br. 21 to the applicant for permanent use. However, on 6 October 1999 the same municipality issued a decision which returned the apartment to the pre-war occupancy right holder, M.B., and ordered the applicant to vacate the property. Allegedly during the course of these proceedings the applicant's father-in-law informed the authorities that the applicant could no longer live in his house as she had before the war. In January, April and May 2000 the Municipality issued orders for the applicant's eviction from Ulica Hasana kikića br. 21, none of which were ever carried out.

3. Apparently, during April 2000, M.B. and the applicant reached an agreement which would allow the applicant to remain in the apartment for an unspecified period of time. They attempted to have this agreement recognised with the Municipality. It does not appear that this ever occurred.

4. On 3 May 2000 the applicant filed a complaint to the Municipality against the order for her eviction and also requested a review of the proceedings which found that the apartment must be returned to the pre-war occupancy right holder. This request was refused on 30 June 2000. The applicant appealed against this decision on 17 July 2000. It does not appear that this appeal has yet been decided.

5. The Municipality again ordered the applicant's eviction for 18 August 2000. It is not known if the applicant still occupies the apartment.

II. COMPLAINT

6. The applicant complains that the actions of the Municipality have not been in accordance with the applicable laws.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 12 May 2000 and registered on 16 May 2000.

8. The President of the Second Panel first considered the application on 17 May 2000 when it decided to issue a provisional order prohibiting the authorities of the Federation of Bosnia and Herzegovina from evicting the applicant for a period of 30 days. At that time the application was transmitted to the Federation for its observations on the admissibility and merits. In addition the Chamber asked the applicant for more specific information regarding her case. After receiving this information, the Chamber decided, on 7 June 2000, not to extend the order for provisional measures. On 17 June 2000 the Federation submitted its observations.

9. On 4 August 2000 the applicant renewed her request for a provisional order. As the applicant's legal position with respect to the apartment had not changed, the Chamber refused this request on 17 August 2000.

IV. SUBMISSIONS ON THE ADMISSIBILITY

10. The Federation of Bosnia and Herzegovina argues that the applicant has not exhausted domestic remedies. The applicant may still file appeals to the second instance body within the Canton and may also file a complaint to the courts under the Law on Adminstrative Disputes (Official Gazette of the Federation of Bosnia and Herzegovina no. 2/98).

V. OPINION OF THE CHAMBER

11. 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 refuse any application which it considers manifestly ill-founded.

12. The applicant complains that the decisions of the Municipality were not taken in accordance with law. However, noting that the Municipality decided to return the apartment in question to the pre-war occupancy right holder, the Chamber cannot find anything in the decisions which may lead to a finding of a violation of the applicant's rights under the Agreement.

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

VI. 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