



DECISION ON ADMISSIBILITY

Case no. CH/99/2303

Mira BASTA

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel, on 9 November 2001 with the following members present:

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

Mr. Ulrich GARMS, 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. INTRODUCTION

1. The application was introduced on 29 July 1999. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction. On 30 July 1999, the Vice-President of the First Panel decided to order the provisional measure requested.
2. The applicant complains of a decision of the Secretariat for Urbanism, Housing-Communal Affairs, Construction and Ecology in Banja Luka, dated 3 March 1997, ordering her eviction from an apartment which she occupies.
3. On 2 October 2000 the applicant regained possession over her pre-war apartment in Sanski Most.
4. On 6 September 2001 the Department for Housing-Communal Affairs in Banja Luka issued a conclusion ordering the enforcement of the decision dated 3 March 1997.
5. On 12 October 2001 the Chamber decided to withdraw its order for provisional measure.

II. OPINION OF THE CHAMBER

6. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... in doing so, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."
7. The Chamber notes that the decision in question was taken to allow the holder of allocation right to repossess the apartment. Furthermore, while it remains doubtful whether the applicant's eviction would have been lawful under the Law on Use of Abandoned Property at the time of application, there is now no longer any prospect of the applicant's being evicted under that Law. Moreover, the applicant regained possession over her pre-war house. Accordingly, the Chamber finds that the applicant has no legally protected right for further use of the apartment.
8. In these circumstances, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement.

III. CONCLUSION

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel