



DECISION ON ADMISSIBILITY

Case No. CH/01/7867

Azra ZORNIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 12 January 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIC, 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 Articles VIII(2)(b) and VIII(3) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 14 August 2001. The applicant complains that the respondent Party has not yet implemented the Chamber's decision of 8 February 2001, ordering her reinstatement into possession of her apartment located at Miroslava Krleža 12/I in Drobrinja, Sarajevo. She further complains that she suffered pecuniary damage of 200 Convertible Marks (*Konvertibilnih Maraka*, "KM") per month for the period during which she could not regain possession of her apartment and 7,000 KM non-pecuniary damages for mental suffering as a result of her inability to regain possession of the apartment in a timely manner.
2. On 8 September 2001 the Chamber ordered the respondent Party, as a provisional measure, to reinstate the applicant into possession of her apartment.
3. The applicant was reinstated into possession of her apartment on 2 October 2001.
4. In a letter of 1 November 2001, the applicant further complains that her apartment is completely devastated and unfit for living in.

II. OPINION OF THE CHAMBER

5. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights."
6. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... and shall take into account the following criteria: ... (b) The Chamber shall not address any application which is substantially the same as a matter which has already been examined by the Chamber or has already been submitted to another procedure of international investigation or settlement."
7. Considering that the applicant was reinstated into possession of her apartment on 2 October 2001, the Chamber finds that the complaint of a failure to reinstate her into the apartment has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore finds it appropriate to strike out the application insofar as it relates to the reinstatement of the applicant into possession of her apartment.
8. The Chamber observes that on 8 February 2001 it gave a decision on the admissibility and merits of the applicant's application registered under no. CH/99/1961. In paragraph 130 of this decision, the Chamber decided on the applicant's complaint about the devastated state of her apartment, stating that "Concerning the claim of the applicant for pecuniary compensation for damage to her personal property, the Chamber notes that it has previously held on a number of occasions that such damage cannot be imputed to the respondent Party, in the absence of evidence that such damage has been caused by the respondent Party or by persons for whose actions it is responsible (...). Accordingly, this part of the applicant's claim must be dismissed". The Chamber therefore finds that the applicant's claim that her apartment has been devastated addresses a matter that is essentially the same as one already examined by the Chamber within the meaning of Article VIII(2)(b) of the Agreement. The Chamber accordingly decides to declare the application inadmissible in so far as it concerns the applicant's claim that her apartment has been devastated.

III. CONCLUSION

9. For these reasons, the Chamber,

1. unanimously, strikes out the part of the application relating to the reinstatement of the applicant into possession of her apartment;

2. by 12 votes to 1, declares the application inadmissible, in so far as it concerns the applicant's complaint that her apartment is devastated.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber