



DECISION ON ADMISSIBILITY

Case no. CH/00/4972

Nermina KASUMOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 February 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Manfred NOWAK
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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 25 May 2000. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to prevent her eviction from the apartment located at. Ul. Hasana Sušića no. 21/II, in Sarajevo ("the apartment") scheduled on 26 May 2000 and/or to provide her with other accommodation, as she has no place to go. On 26 May 2000 the President of the Second Panel decided not to order the provisional measure requested. On 30 May 2000 the applicant informed the Chamber about her new address.

2. The apartment was allocated to the applicant's husband on a temporary basis on 13 October 1995. The applicant complains of a decision of the Administration for Housing Affairs of the Sarajevo Canton ("the Administration") issued on 17 December 1998, confirming the rights of the pre-war occupant and ordering the Kasumovićs to vacate the apartment in 90 days. By its procedural decision of 13 March 2000, the Administration established, based on the Law on Housing Affairs, that the applicant's husband has no right to alternative accommodation. According to the Administration, the applicant's husband before the armed conflict in Bosnia and Herzegovina lived in an apartment over which his mother still has an occupancy right. The applicant states, however, that her husband left her and the children, born in that marriage, on 8 March 2000. On 10 May 2000 she initiated divorce proceedings before the Municipal Court I in Sarajevo.

II. OPINION OF THE CHAMBER

3. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... In so doing, 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."

4. The Chamber notes that the applicant, according to her own statement and to the procedural decision of 17 December 1998, was ordered to vacate the apartment pursuant to a lawful decision terminating her and her husband's right of temporary use of the apartment while she was still in a common household with her husband. In these circumstances, the Chamber finds that the facts complained of do 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. The Chamber therefore decides to declare this part of the application inadmissible.

5. As to the applicant's claim that she has been denied the right to alternative accommodation, the Chamber notes that the European Convention on Human Rights does not contain a right to that effect. As the Chamber has explained in previous cases on this issue, it only has jurisdiction to consider the right to housing, which is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights, in connection with alleged or apparent discrimination in the enjoyment of such right (see case no. CH/01/6662, *Huremović*, decision on admissibility of 6 April 2001, paragraph 4, Decisions January-June 2001). The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible too.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO,
President of the Second Panel