



## **DECISION ON ADMISSIBILITY**

**Case no. CH/02/8934**

**Atifa KARAJKIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 September 2002 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. 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. FACTS AND COMPLAINTS**

1. The application was submitted to the Chamber on 18 February 2002.
2. The applicant was the temporary occupant of an apartment located at Muftije Šemsekadića 9B/II in Zenica.
3. On 19 November 2001, upon a request of the pre-war occupancy right holder, the Service for General Administration and Housing Affairs (the "Administration") issued a procedural decision allowing the pre-war occupancy right holder to return into possession of the apartment and ordering the temporary occupant to leave the apartment within 15 days, without the right to alternative accommodation. On 30 November 2001, the applicant lodged an appeal against the procedural decision in question. The Chamber has no information as to whether the second instance organ decided upon the appeal or the proceeding upon appeal is still pending.
4. The Administration issued a conclusion scheduling the eviction of the applicant for 8 February 2002. Sometime thereafter, the Administration temporarily delayed execution of the eviction because the applicant was not entitled to alternative accommodation, but she had no other place to live. Later on, the applicant informed the Chamber that she had moved to another address on 18 March 2002.
5. In her application to the Chamber, the applicant asserts that her right to possess an apartment and her right to equality before the law have been violated. The applicant alleges that her housing problem remains unsolved due to the following facts: On 31 April 1991 she lived in her sister's house because she had divorced her husband. The house where she had lived with her husband has not been divided between them, and in any event, it is inhabitable. The apartment in question was allocated to the applicant in 1993, and she lived in it with her son, daughter-in-law and grandchild. Their monthly income amounts to 300 KM. As a result, the applicant alleges that she has nowhere to live upon her eviction from the apartment in question.

## **II. OPINION OF THE CHAMBER**

6. 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."
7. The Chamber notes that the decision on the applicant's eviction was taken to allow the pre-war occupancy right holder to repossess the apartment and that the applicant has no right under domestic law to occupy the apartment. In these circumstances, the Chamber finds that this part of 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. The Chamber therefore decides to declare this part of the application inadmissible.
8. As to the applicant's claim that she has been denied the right to housing, the Chamber notes that she is neither entitled to alternative accommodation under domestic law, nor does the European Convention on Human Rights contain a right to housing. 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 as well.

**III. CONCLUSION**

9. 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