



DECISION ON ADMISSIBILITY

Case No. CH/99/1706

Azemina SUBAŠIĆ

against

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

1. The applicant is a citizen of Bosnia and Herzegovina. Upon a procedural decision of the Commission for Allocation of Apartments of Ilidža Municipality of 19 July 1978, the applicant was allocated for use a two-room apartment located in Hrasnica, ulica Tvornička no. 14. On 25 July 1978 the applicant concluded a contract on use of that apartment. She has been living in that apartment since then. The applicant is not satisfied with the fact that she has to live with her six-member family in such a small apartment, which was damaged due to shelling. She claims that already in 1978 she reached an agreement with Ilidža Municipality to use that apartment on a temporary basis only until the time she is provided with an adequate and larger apartment, which has not been allocated to her yet.

2. On 16 November 1998 the applicant filed a complaint to the Municipal Court II Sarajevo against the Ilidža Municipality requesting to be allocated a larger apartment. In her complaint the applicant states that she is entitled to a larger apartment than the apartment she was allocated and claims that she has reached an agreement with Ilidža Municipality to allocate her a larger apartment. She alleges that she uses the apartment allocated to her in 1978 on a temporary basis only. On 27 April 2000 the Municipal Court II Sarajevo issued a judgement rejecting applicant's complaint. The applicant filed an appeal to the Cantonal Court in Sarajevo which was rejected by a judgement of 30 October 2000. The judgement states that the applicant occupies the apartment on the basis of the contract on use of the apartment of 25 July 1978 which was concluded for indefinite time, and that there was no need to speak about temporary solution of her housing problem. On 18 January 2001 the applicant also filed a request for revision, but the Supreme Court rejected that request by its procedural decision of 26 April 2001.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced to the Chamber on 8 March 1999 and registered on the same day. It has not been transmitted to the respondent Party.

III. COMPLAINTS

4. The applicant alleges violations of her right to home protected under Article 8 of the European Convention on Human Rights and Fundamental Freedoms.

IV. OPINION OF THE CHAMBER

5. 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".

6. The Chamber notes that the applicant complains that there has been an interference with her right to adequate housing. However, these right is not included among the rights and freedoms guaranteed under the European Convention on Human Rights. Such rights could be protected under the International Covenant on Economic, Social and Cultural Rights; however, because no discrimination is alleged or apparent, the applicant's claim does not fall within Article II(2)(b) of the Agreement. It follows that 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 the application inadmissible.

V. CONCLUSION

7. 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