



DECISION ON ADMISSIBILITY

Case no. CH/02/11292

Mejra DRUGOVAC

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
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 15 July 2002. The applicant requested that the Chamber order the respondent Parties, as a provisional measure, to take all necessary action to prevent her eviction from an apartment which she occupies. On 22 July 2002, the Vice-President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains of the ex-officio decision of the Administration for Housing Affairs of Canton Sarajevo of 5 June 2002, ordering her eviction from an apartment which she occupies. The eviction was ordered because the pre-war occupant obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it. The decision established that the applicant was a multiple occupant, pursuant to the Law on Cessation of the Application of the Law on Abandoned Apartments, articles 7a, 11 and 11a, due to the fact that she could, due to her family income, otherwise meet her housing needs. Article 7a provides that the "deadline for vacating the apartment, referred to in Article 7, Paragraph 1, Point 5 of this Law shall be 15 days from the date of delivery of the decision and the decision on entitlement to accommodation under Article 7, Paragraph 1, Point 6 of this Law shall be negative, unless the current user is a temporary user as defined in Article 2, paragraph 3 of this Law and: (1) The temporary user is not a multiple occupant, as defined in Articles 11 and 11a of this Law." Article 11 provides that a "multiple occupant includes, among others, a current user who uses an apartment and ... (7) whose accommodation needs are otherwise met, as defined in Article 11a of this Law". According to Article 11a, "a temporary user whose accommodation needs are otherwise met shall include, among others: ... (6) a temporary user who has sufficient disposable income, including assets, to provide for his/her own accommodation. Sufficient disposable income shall be defined as one-fourth of the applicable breadbasket, as calculated by the competent statistical institute, per current family household member, plus 200 KM;"

3. The applicant filed an appeal against the above procedural decision claiming that her family income was wrongly established in the proceedings and that therefore she does not have enough income to meet her housing needs if evicted. This appeal, however, does not stay execution.

4. The applicant requests the Chamber order that she be provided with alternative accommodation or to have her house, where she lived in 1992, reconstructed. She also requests the Chamber to declare the eviction decision null and void.

II. 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 applicant directs her application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions she complains of, nor can the Chamber on its own motion find any such evidence. The application is therefore incompatible *ratione personae* with the Agreement insofar as it is directed against Bosnia and Herzegovina.

7. The Chamber notes that the applicant was ordered to vacate the apartment concerned on the ground that she had no right under domestic law to occupy it. 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 in this respect the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible in this part.

8. As to the applicant's claim that she has been denied the right to alternative accommodation, the Chamber notes that she is neither entitled to such accommodation under domestic law nor does

the European Convention on Human Rights 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 as well.

III. CONCLUSION

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel