



DECISION ON ADMISSIBILITY

Case no. CH/02/9855

Anda BEKONJA

against

THE FEDERATION BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 December 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

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 applicant is a temporary occupant of an apartment in Sarajevo located at ulica Kalemova 24. The pre-war occupancy right holder initiated proceedings before the Administration for Housing Affairs of Canton Sarajevo (the "Administration"). On 10 January 2002, upon a request of the pre-war occupancy right holder, the Administration issued a procedural decision allowing the pre-war occupancy right holder to return into possession of the apartment and ordering the applicant to vacate the apartment within 15 days, without the right to alternative accommodation. On 18 February 2002, the applicant lodged an appeal. The Chamber has no information on whether a decision upon this appeal has been issued.

2. The applicant was scheduled to be evicted from the apartment in question on 19 April 2002.

3. The applicant claims that she occupies this apartment because the apartment where she lived before the armed conflict is completely destroyed. She claims that she is a single mother with three children and she has no income to provide accommodation for her family. Therefore, she states that her right to home has been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was submitted to the Chamber on 5 April 2002 and registered on the same day.

5. The applicant requested the Chamber to order the respondent Party, as provisional measure, to take all necessary action to prevent her eviction from the apartment in question. On 15 April 2002, the Vice-President of the First Panel decided to reject the provisional measure requested.

III. 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 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 the application inadmissible.

IV. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel