



DECISION ON ADMISSIBILITY

Case no. CH/02/12010

Edina BERBIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 April 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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. Before the armed conflict the applicant lived in a house in Vlasenica, the Republika Srpska. The applicant alleges that she was forced out of her house in Vlasenica and that it is currently used by a person of Serb origin.
2. By the procedural decision of the City Secretariat for Housing Affairs of 6 May 1996, the applicant was allocated for temporary use an apartment in Zuke Džumhura no. 28/II in Sarajevo.
3. On 21 September 1999, the applicant registered for voluntary return to Vlasenica. On 1 March 2001, she submitted a request to the Commission for Real Property Claims of Refugees and Displaced Persons (the "CRPC") for repossession of her property in Vlasenica. The Chamber has no further information about this request.
4. On 28 August 2000, the Administration for Housing Affairs of the Sarajevo Canton (the "Administration") issued a procedural decision confirming that Jela Zakić is the co-holder of the occupancy right over the apartment at Zuke Džumhura no. 28 in Sarajevo. The decision terminated the applicant's right for temporary use and obliged her to vacate the apartment within 90 days. Also, it established that she has the right to alternative accommodation in accordance with the Law on Housing Relations. On 12 March 2001, the Administration issued a conclusion pursuant to which the procedural decision of the Administration of 28 August 2000 became enforceable.
5. On 5 June 2001, the Administration issued a procedural decision establishing that the applicant used the apartment in Sarajevo as a multiple occupant and giving her 15 days to vacate the apartment. The reasoning of the procedural decision states that the applicant and her husband have sufficient income to provide for their own accommodation for themselves and their family. On 15 July 2002, the Administration issued a conclusion pursuant to which the procedural decision of the Administration of 5 June 2001 became enforceable.
6. The applicant states that she did not even try to keep the apartment in Sarajevo because she does not want someone else's property. She considers that according to the reciprocity principle, everyone should return to his or her own place, *i.e.* everyone must be reinstated into his or her pre-war property. However, she emphasises the serious financial and social situation of her family and requests the Chamber to order the Ministry of Housing Affairs to pay for her alternative accommodation for a period of 6 months. Also, she requests compensation for pecuniary damages in the amount of 1,200.00 KM.

II. PROCEEDING BEFORE THE CHAMBER

7. The application was introduced on 6 August 2002 and registered on the same day. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from the apartment in question. Such eviction was scheduled for 7 August 2002.
8. On 6 August 2002, the Acting President of the First Panel rejected the provisional measure requested.

III. OPINION OF THE CHAMBER

9. 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."
10. The Chamber notes that the decision on the applicant's eviction was taken to allow the co-holder of the pre-war occupancy right to repossess 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.

11. 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.

IV. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel