



## **DECISION ON ADMISSIBILITY**

**Case no. CH/03/13450**

**Indira AJANOVIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 May 2003 with the following members present:

Mr. Jakob MÖLLER, Acting President  
Mr. Mehmed DEKOVIĆ  
Mr. Manfred NOWAK  
Mr. Vitomir POPOVIĆ  
Mr. Viktor MASENKO-MAVI

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. Until 1992, the applicant lived at Vrbanja no. 6 in Sarajevo in an attic flat that was shelled during the armed conflict. She states that reconstruction of her pre-war apartment is in process, but it is still not habitable. She further states that she has taken out three loans in order to return to her pre-war apartment as soon as possible.
2. On 5 March 2002, the Department for General Administration and Housing Affairs of the Kakanj Municipality issued a certificate allocating the applicant an apartment at Ulica Šehida in Kakanj, owned by the Kakanj Municipality, for her temporary use until her pre-war apartment becomes available.
3. The pre-war occupancy right holder of the apartment in question died in 1989.
4. On 15 August 2002, the Department for General Administration and Housing Affairs of the Kakanj Municipality (the "Department") issued *ex officio* a procedural decision terminating the applicant's right to temporary-alternative use of the apartment in question on the basis of Article 18d paragraphs 4 and 5 of the Law on Cessation of the Application of the Law on Abandoned Apartments. The applicant was ordered to vacate the apartment within 15 days. In the reasoning of the procedural decision, the Department explained that it acted *ex officio* to establish whether the applicant met the conditions for alternative accommodation. On the basis of the specific facts of her case, the Department established that the applicant was not entitled to alternative accommodation in accordance with Article 11 paragraph 4(1)(7) and Article 11a paragraph 1(6) of the Law on Cessation of the Application of the Law on Abandoned Apartments.
5. On 17 March 2003, the Department issued a conclusion on enforcement of the procedural decision of 15 August 2002, scheduling the applicant's eviction for 10 April 2003.
6. In connection with her eviction from the apartment in question, the applicant addressed the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, the Ombudsman of the Federation of Bosnia and Herzegovina, and the Ministry for Physical Planning, Transportation, Communications and Environment of the Zenica-Doboj Canton, which recommended to the housing organ to postpone her eviction.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

7. The application was introduced on 4 April 2003. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to allow her undisturbed use of her temporary accommodation until the reconstruction of her permanent accommodation—pre-war home is completed. On 8 April 2003, the President of the Second Panel decided not to order the provisional measure requested.
8. The applicant claims compensation for the funds she invested in her temporary accommodation. She also claims compensation for the inhuman treatment she has suffered as a single mother with two under age children.

## **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. With respect to her eviction from her temporary-alternative apartment, the Chamber notes that the applicant was ordered to vacate the apartment in question pursuant to a lawful decision terminating a right of temporary use. 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 this part of 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.

11. As to the applicant's claim that she has lost her right to alternative accommodation, the Chamber notes that she is no longer entitled to such accommodation under domestic law. The European Convention on Human Rights also does not 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)  
Jakob MÖLLER  
Acting President of the Second Panel