



DECISION ON ADMISSIBILITY

Case no. CH/02/12037

Meliha DRUŽIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 July 2003 with the following members present:

Mr. Miodrag PAJIĆ, Acting President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. On 8 August 1994, the applicant entered an exchange contract involving her private property situated in Slavonski Brod, Republic of Croatia and that of Mr. Ljubomir Barišić, located in Zenica, Ulica Prašnice 22. Both parties entered into possession of their respective properties. The exchange contract was verified by the First Instance Court in Zenica on 22 September 1994 and the applicant was registered as the owner of the house by a decision of the Municipal Court in Zenica as of 9 September 1998.

2. On 22 January 2002, the Commission for Real Property Claims (the "CRPC") issued a decision confirming Mr. Barišić's property right over the real estate in Zenica as of April 1992. On 15 July 2002, the Housing Administration of the Municipality of Zenica ("the Administration") permitted the enforcement of the CRPC decision. The applicant's eviction was scheduled to take place on 12 September 2002.

3. On 14 August 2002, the applicant initiated a civil lawsuit before the Municipal Court in Zenica against Mr. Barišić with a view to establishing the validity of the exchange contract. On 4 September 2002, the Chamber ordered the respondent Party to refrain from further steps in order to evict the applicant from the house in Zenica. On 5 September 2002, the Municipal Court in Zenica ordered the Administration to suspend the enforcement of the CRPC decision and not to evict the applicant until the pending civil proceedings are concluded.

II. COMPLAINTS

4. The applicant alleges that her rights under Articles 6, 8 and 13 of the European Convention on Human Rights ("the Convention") and under Article 1 of Protocol no. 1 to the Convention are violated.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 7 August and registered on 15 August 2002. On the same day when this decision was issued, the Chamber decided to withdraw its order for provisional measures of 4 September 2002.

IV. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ...".

7. The Chamber observes that on 5 September 2002, the Municipal Court in Zenica ordered the Administration to suspend the applicant's eviction until the validity of the exchange contract is determined by that Court in proceedings currently pending before it. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Miodrag PAJIĆ
Acting President of the First Panel