



DECISION ON ADMISSIBILITY

Case no. CH/02/11005

Merima and Ibrahim ALOMEROVIĆ

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-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) and (c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. Underlying the case is an exchange of real properties. On 24 January 1995, the applicants, a married couple, agreed to exchange their house located in Pančevo, Serbia with the apartment of Mr. Lj.T. in Sarajevo (Ulica Kranjčevića no. 23/III). It appears that at some stage before the exchange contract was concluded, Lj.T. had purchased the apartment in Sarajevo from the Federal Secretariat of National Defence. According to the applicants, they could not register themselves as owners of the apartment in Sarajevo, whereas Lj.T. was registered as the owner of the house in Pančevo.

2. On 12 June 2001, the Commission for Real Property Claims (“the CRPC”) issued a decision confirming Lj.T.’s occupancy right over the Sarajevo apartment as of 1 April 1992. On 8 January 2002, the applicants initiated civil proceedings before the Municipal Court I in Sarajevo with a view to establishing the validity of the exchange contract. On various occasions, most recently on 9 May 2002, the applicants requested the Municipal Court to order the competent administrative body, as a provisional measure, to refrain from taking any steps towards their eviction from the Sarajevo apartment until the completion of the pending court proceedings. Apparently, the Municipal Court has neither granted nor rejected their request for a provisional measure.

II. COMPLAINTS

3. The applicants allege violations of their rights under Articles 6 and 8 of the European Convention on Human Rights (the “Convention”) and of Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 15 May 2002. The applicants are represented by Ms. Ferida M. Hadžimuratović, a lawyer practising in Sarajevo. In their application, the applicants requested that the Chamber order the Federation of Bosnia and Herzegovina, as a provisional measure, not to carry out their eviction until the court proceedings are completed. On 4 June 2002, the Chamber decided not to order the provisional measure requested.

IV. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ... (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 applicants direct their application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber notes that the applicants have not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions they complain 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. The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina pursuant to Article VIII(2)(c) of the Agreement.

7. The Chamber further notes that the applicants’ complaint is premature as the proceedings are still pending before the Municipal Court. Moreover, the applicants have not yet received an administrative decision on enforcement of the CRPC decision. Accordingly, the domestic remedies have not been exhausted as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible as against the Federation of Bosnia and Herzegovina as well.

V. 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