



DECISION ON ADMISSIBILITY

Case no. CH/00/5114

Aiša TUFEKČIĆ

against

FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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

1. The applicant was a temporary occupant of an apartment in Zenica, ulica Crkvice 49, on the basis of a provisional decision on temporary occupancy issued by the Municipality Zenica on 27 November 1993. Before that date, the applicant lived with her deceased husband's relatives.
2. On 28 February 2000 the Municipality Zenica issued a procedural decision terminating the applicant's temporary occupancy right over the above-mentioned apartment and ordering the reinstatement into possession of the pre-war occupancy right holder.
3. On 15 March 2000 the applicant filed an appeal against this procedural decision. In her appeal she stated that no emergency accommodation was provided to her and her three under age children, although the family of her husband does not allow her any access to the house in which she lived before the war.
4. On 3 May 2000 the Municipality Zenica issued a conclusion ordering the forcible eviction of the applicant on 21 June 2000. The applicant filed an appeal against this conclusion on 20 May 2000. This appeal has no suspensive effect, and it appears that no decision has been taken upon it to date.

II. COMPLAINTS

5. The applicant alleges the violation of Article 8 of the European Convention on Human Rights. She also alleges that her right to a fair proceeding guaranteed by Article 6 of the Convention has been violated.

III. PROCEEDINGS BEFORE THE HUMAN RIGHTS CHAMBER

6. The application was introduced on 15 June 2000 and registered on the same day. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from the apartment she temporarily occupies. On 20 June 2000 the Chamber issued an order for provisional measures ordering the respondent Party to take all necessary steps to prevent the eviction of the applicant from the apartment at issue until she is offered alternative accommodation. The application was transmitted to the respondent Party for its observations on admissibility and merits.
7. The respondent Party submitted its observations in the case on 21 July 2000. According to the respondent Party, the application is inadmissible because the applicant's right to use the apartment was terminated by the administrative proceedings conducted upon the request of the pre-war occupancy right holder. The respondent Party also argues that the applicant did not exhaust effective legal remedies before filing her application with the Chamber.
8. On 23 January 2001 the respondent Party informed the Chamber that, in response to its order for provisional measures, it allocated to the applicant an apartment at ulica Sarajevska 400, as alternative accommodation. The accommodation was given to the applicant for her use until the final decision of the Chamber, but not beyond 4 July 2001.
9. On 6 June 2001 the Citizens' Association for the Protection of Human Rights of Temporary Occupants of Abandoned Apartments in the Federation of Bosnia and Herzegovina requested that the Chamber continue with the proceedings in this case and extend its order for provisional measures in light of the respondent Party's statement that it would terminate the applicant's right to alternative accommodation on 4 July 2001.
10. On 12 June 2001 the respondent Party informed the Chamber that it had secured alternative accommodation for the applicant. It therefore proposed that the Chamber withdraw its order for provisional measures, because there is no longer any reason justifying that provisional measure.

11. On 10 October 2001 the Chamber withdrew its order for provisional measures. On 6 December 2001 the Chamber adopted the present decision.

IV. OPINION OF THE CHAMBER

12. 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.”

13. The Chamber notes that the applicant’s eviction was ordered in order to reinstate the pre-war occupancy right holder into possession of the apartment. The respondent Party complied with the Chamber’s order by offering an alternative accommodation to the applicant. The applicant’s complaint concerning the threatened eviction from the apartment which she is using is manifestly ill-founded in accordance with Article VIII (2)(c) of the Agreement.

14. The Chamber also notes that the applicant has not provided any arguments or evidence supporting her complaint of unfairness of the proceedings in her case before the domestic authorities. Accordingly, also this part of the application is manifestly ill-founded within the meaning of Article VIII(2)(c).

V. CONCLUSION

15. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(Signed)
Ulrich GARMS
Registrar of the Chamber

(Signed)
Giovanni GRASSO
President of the Second Panel