



DECISION ON ADMISSIBILITY

Case no. CH/00/5234

Amela CENA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 September 2000 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. Anders MÅNSSON, 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 is a citizen of Bosnia and Herzegovina. She lives in a joint household with her parents and her brother in Tuzla in the Federation of Bosnia and Herzegovina. During the war they were forced to leave from Jajce in the Federation of Bosnia and Herzegovina. A procedural decision of the Municipal Secretariat for Physical Planning, Housing and Communal Affairs and Environment of Tuzla of 20 April 1994 allocated to the applicant's brother and members of his family household, among them the applicant, an apartment for temporary use. This apartment, located at Ulica Bosna Srebrena 109 in Tuzla, had been declared abandoned. It is owned by E.B.

2. On an unspecified date E.B. submitted a request for repossession of the Tuzla apartment. A procedural decision of the Administration for Geodetic and Property-Legal Affairs in Tuzla of 29 May 2000 recognised E.B. as the owner of the apartment and terminated the applicant's brother's right of temporary use. It ordered the applicant's brother and the other members of the household to move out within 15 days. The Administration heard the applicant's brother and mother during the proceedings. Although they objected to returning to Jajce, the aforementioned decision established that the family was able to return to their pre-war apartment and had sufficient financial resources to provide for alternative accommodation.

3. In June 2000 the applicant's brother filed an appeal to the Ministry of Urbanism, Physical Planning and Environment of Tuzla Canton. No decision has been taken on this appeal.

4. A procedural decision of the Administration for Communal Housing Affairs, Reconstruction, Development and Refugees in Jajce of 25 May 2000 granted the applicant's father the right to repossess the pre-war family home and ordered the temporary occupant to vacate the apartment within 90 days. The applicant's father filed an appeal on the ground that the temporary occupant was given 90, rather than 15, days to vacate the apartment. This appeal is still pending.

II. COMPLAINTS

5. It appears that the applicant complains of a violation of her right to respect for her home under Article 8 of the European Convention on Human Rights.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced to the Chamber on 26 June 2000 and registered on the same day. The applicant requested that the Chamber order a provisional measure suspending, for an unspecified length of time, the applicant's forcible eviction scheduled for 3 July 2000. On 30 June 2000 the Chamber refused her request.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

8. The Chamber notes that the applicant, being part of the family household, had a right to temporarily use the apartment in Tuzla. This right was terminated by the decision of the Tuzla Administration of 29 May 2000 and it was ordered that the apartment be returned to its owner. Thus, thereafter, the applicant and the other family members had no legal right to occupy that apartment. The Chamber further notes that the decision of 29 May 2000 states that the family is able to return to their pre-war home in Jajce, which is confirmed by the decision of the Jajce Administration of 25

May 2000 granting the applicant's father the right of repossession of that home. In these circumstances the Chamber can not find any irregularities, on the basis of the information before it, which would amount, *prima facie*, to a human rights violation.

9. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel