



DECISION ON ADMISSIBILITY

Case no. CH/01/6835

Fata DURAKOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 March 2001 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING, Vice President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Peter KEMPEES, 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. INTRODUCTION

1. The application was introduced on 12 February 2001. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from the apartment in Sarajevo, ul. Vrazova 18. On 13 February 2001 the Chamber decided not to order the provisional measure requested.

2. The applicant complains of a conclusion of the Administration for Housing Affairs of Canton Sarajevo issued on 30 January 2001 allowing enforcement of a procedural decision restoring the apartment in question to the pre-war occupant and ordering her eviction. Furthermore, she requests that the Chamber protect her rights to reconstruction of her pre-war house and her right to live there with her family.

3. On 19. February 2001 the applicant submitted a letter to the Chamber complaining about the Chamber's refusal of her request for provisional measures. She requests a decision in her favour because, after eviction, the family members have allegedly moved into four different places as the house they had lived in before the war is not habitable.

II. OPINION OF THE CHAMBER

4. As to the applicants complaint about her eviction, the Chamber notes that the applicant was ordered to vacate the apartment pursuant to a lawful decision terminating a right of temporary use. Moreover, the Chamber notes that the pre-war occupancy right over the apartment in question was confirmed to its pre-war occupant by a decision of the Commission for Real Property Claims of Displaced Persons and Refugees issued on 8 June 1999. In the light of all the material in its possession, 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 must be rejected as manifestly ill-founded, in accordance with Article VIII(2)(c) of the Agreement.

5. As to the applicant's request for protection of her rights to reconstruction of her pre-war dwelling, the Chamber has examined the application and finds that the applicant failed to initiate any proceedings to that end before the competent authorities. The applicant has not shown that the available remedies were ineffective and they do not appear so to the Chamber. The Chamber finds that the applicant has therefore not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. It follows that this part of the application must be rejected too.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel