



DECISION ON ADMISSIBILITY

CASE No. CH/01/7068

Fata MUJAGIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel, on 8 September 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. 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. INTRODUCTION

1. The application was introduced on 22 January 2001 and registered on 2 February 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent working space she was using before the war to be rented to a third person on the basis of a lease contract. On 6 April 2001, the Chamber decided not to order the provisional measure requested.
2. The applicant complains of a procedural decision of the Ministry for Refugees and Displaced Persons in Bijeljina, dated 15 June 2000, declaring itself incompetent *ratione materiae* and rejecting her request for repossessing the working space.
3. On 27 June 2000 the applicant appealed to the second instance organ against the procedural decision mentioned in paragraph 2 above. These proceedings are still pending.

II. OPINION OF THE CHAMBER

4. 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. Accordingly to Article VIII(2)(a), the Chamber shall take into account whether effective remedies exist, and whether the applicant has demonstrated that they have been exhausted.
5. The Chamber finds that the applicant's complaint is premature as the proceedings are still pending before the second instance organ.
6. Accordingly, the Chamber decides not to accept the application, as the applicant has failed to exhaust domestic remedies in accordance with Article VIII(2)(a) of the Agreement.

III. CONCLUSION

7. 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