



DECISION ON ADMISSIBILITY

CASE No. CH/01/7179

Gordana OBRADOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel, on 6 September 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. 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 25 May 2001 and registered on the same day. On 19 June 1991 the applicant signed a Contract on Life Support with V.D., a former holder of occupancy right over the apartment situated in Banja Luka. The applicant moved to Canada in 1993 where she currently lives. She requested that the Chamber order to the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from the apartment in question although there was no pending eviction order. On 5 June 2001, the Chamber decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Department for Housing-Communal Affairs, dated 23 November 2000, rejecting her request to achieve allocation of the occupancy right from V.D. On 28 March 2001 the Ministry for Urbanism, Housing-Communal Affairs, Constructing and Ecology confirmed the decision dated 23 November 2000.

3. On 23 May 2001 the applicant suggested renewal of administrative proceedings before the Department for Housing-Communal Affairs in Banja Luka. There are no further information in a case file regarding these proceedings.

4. On 23 May 2001 the applicant initiated an administrative dispute before the Supreme Court of the Republika Srpska. These proceedings are still pending.

II. OPINION OF THE CHAMBER

5. 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.

6. The Chamber finds that the applicant's complaint is premature as the proceedings are still pending before the Supreme Court of the Republika Srpska.

7. 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

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