



DECISION ON ADMISSIBILITY

Case no. CH/01/7212

Ljiljana NAJMAN-ŠILJAK

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 September 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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. INTRODUCTION

1. The applicant complains against a procedural decision issued by the Ministry for Refugees and Displaced Persons in Gradiška on 27 September 2000, ordering her eviction from an apartment which she occupied.

II. PROCEEDINGS BEFORE THE CHAMBER

2. The application was received on 20 June 2001 and registered on 25 June 2001.

3. 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 which she occupied, located in Gradiška. On 2 July 2001, the Chamber decided to reject the provisional measure requested.

4. On 2 July 2001, the Chamber also decided to transmit the case to the respondent Party for its observations on the admissibility and merits under Article 8 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention.

5. In its observations of 25 October 2001 and 24 December 2001, the respondent Party opines that the case should be declared inadmissible due to non-exhaustion of domestic remedies. The respondent Party submitted no observations on the merits of the case.

6. On 28 November 2001, the applicant submitted her reply observations in which she presents arguments opposite to the respondent Party's arguments.

7. The applicant repeated her request for an order for provisional measure aimed at preventing her eviction from the apartment concerned, and the Chamber rejected these additional requests on 23 July 2001, 22 October 2001, and 2 July 2002.

III. OPINION OF THE CHAMBER

8. 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."

9. The Chamber notes that the decision on the applicant's eviction was taken to allow the pre-war occupancy right holder to repossess the apartment and that the applicant has no right under domestic law to occupy the apartment. In these circumstances, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

10. 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