



DECISION ON ADMISSIBILITY

Case no. CH/01/7700

Hatidža KARAHASANOVIĆ

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 March 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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 application was introduced on 16 July 2001. The applicant is a widow and does not enjoy refugee or displaced person status. She was granted a temporary occupancy right over the apartment located at ul. Branilaca grada, lamela I/II, Zavidovići, the Federation of Bosnia and Herzegovina (the "apartment") by the Zavidovići Municipality (the "Municipality") as her husband was killed in combat during the armed conflict. However, on 8 May 2001 the Municipality issued a procedural decision establishing the rights of the pre-war occupant to the apartment. The applicant's temporary right was cancelled. She was ordered to vacate the apartment within 15 days with no right to alternative accommodation, as before the armed conflict in Bosnia and Herzegovina she lived in the family house of her father-in-law.
2. The applicant requested that the Chamber order the respondent Parties, as a provisional measure, to take all necessary action to prevent her eviction from the apartment scheduled on 18 July 2001. On 16 July 2001 the President of the Second Panel decided not to order the provisional measure requested. The eviction was not carried out. On 27 August 2001 the applicant submitted, once again, a request for provisional measures asking the Chamber to prevent her eviction from the apartment, which had been rescheduled for 29 August 2001. She stated that she has no place to go, as the pre-war family house of her father-in-law burnt down during the war. On 29 August 2001 the President of the Second Panel decided not to order the provisional measure requested.
3. The applicant complains of the procedural decision of the Zavidovići Municipality ordering her eviction. She requested the Municipality to be granted alternative accommodation, with no success.

II. OPINION OF THE CHAMBER

4. 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."
5. Regarding the two respondent Parties indicated in the application, the Chamber notes that the Municipality Zavidovići responsible for the proceeding complained of by the applicant is an administrative subdivision of the Federation of Bosnia and Herzegovina. Accordingly, insofar as it is directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible.
6. The Chamber further notes that the applicant was ordered to vacate the apartment pursuant to a lawful decision terminating a right of temporary use. In these circumstances, 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 the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible too.
7. As to the applicant's claim that she has been denied the right to alternative accommodation, the Chamber notes that the European Convention on Human Rights does not contain a right to that effect. As the Chamber has explained in previous cases on this issue, it only has jurisdiction to consider the right to housing, which is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights, in connection with alleged or apparent discrimination in the enjoyment of such right (see case no. CH/01/6662, *Huremović*, decision on admissibility of 6 April 2001, paragraph 4, Decisions January-June 2001). The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible as well.

III. CONCLUSION

8. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI,
Acting President of the Second Panel