



## **DECISION ON ADMISSIBILITY**

**Case no. CH/01/7951**

**M.K.**

**against**

**BOSNIA AND HERZEGOVINA  
and  
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 2002 with the following members present:

Ms. Michèle PICARD, President  
Mr. Rona AYBAY, Vice President  
Mr. Dietrich RAUSCHNING  
Mr. Hasan BALIĆ  
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. FACTS AND COMPLAINTS**

1. The case concerns four apartments in the Federation of Bosnia and Herzegovina used by the applicant and/or her father.

2. Sometime in 1972 the applicant lived in an apartment located at ul. Ilije Engela no. 9 in Sarajevo (apartment no. 1), which her father had rented pursuant to a four-year lease from the occupancy right holder of the apartment, Mr. Z.M. Sometime in 1989, the applicant's father was allocated another apartment located at ul. Adija Mulabegovića no. 3 in Sarajevo (apartment no. 2). However, the applicant remained in possession of apartment no. 1 until to 1995, when she moved into an apartment located at ul. F. Bećirbegovića no. 15/III in Sarajevo (apartment no. 3) with the permission of the pre-war occupant of apartment no. 3, Mr. Z.J. On 8 November 1997 the applicant was permanently allocated an apartment located at ul. Olimpijska no. 42 in Sarajevo (apartment no. 4) by the Ministry of Defence of the Federation of Bosnia and Herzegovina. However, according to the applicant, that procedural decision was never enforced.

3. On 31 July 2001 the Administration for Housing Affairs of the Sarajevo Canton (the "Administration") issued a procedural decision establishing that the applicant is an illegal occupant of apartment no. 3, over which Mr. Z.J. holds the occupancy right. According to the Administration, the applicant has no evidence, such as a procedural decision by a competent body or a contract on use of the apartment, to prove that she is a legal occupant of the apartment no. 3. She was ordered to vacate the apartment in 15 days with no right to alternative accommodation, as on 30 April 1991 she was a sub-tenant of apartment no. 1. On 3 October 2001, the applicant appealed against the procedural decision, but her appeal has no suspensive effect. The Chamber has no information on the outcome of the appeal proceedings.

4. In her application, the applicant alleges that her right to home, to repossession of her apartment and to dignity have been violated. She claims that powerful individuals have pressured the housing authorities to evict her from apartment no. 3. Additionally, she alleges that on 31 April 1992, she was a co-occupancy right holder, along with her father, over apartment no. 1.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

5. The application was introduced on 3 October 2001 and registered on the same date.

6. 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 located at ul. F. Bećirbegovića no. 15/III in Sarajevo (apartment no. 3). She requested, as alternative provisional measure, to be returned into possession of the apartment located at ul. Ilije Engela no. 9, in Sarajevo (apartment no. 1). On 18 October 2001 the President of the First Panel decided not to order the provisional measures requested.

7. On 20 December 2001 the applicant submitted evidence that her eviction from apartment no. 3 was scheduled for 24 December 2001.

## **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. With regard to the two respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton (Uprava za stambenje pitanja Kantona Sarajevo) responsible for the proceedings complained of by the applicant is an organ of the Canton, the conduct of which engages the responsibility of the Federation, not of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. Accordingly, as 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 the application inadmissible as against Bosnia and Herzegovina.

10. The Chamber notes that the applicant was ordered to vacate the apartment concerned, *i.e.*, apartment no. 3, on the ground that she had no legal right under domestic law to occupy it. The Chamber further notes that the applicant has not established that she has a legal right under domestic law to occupy apartment no. 1. 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 the application inadmissible as against the Federation of Bosnia and Herzegovina as well.

#### **IV. CONCLUSION**

11. 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