



DECISION ON ADMISSIBILITY

Case no. CH/01/8429

Sabira GARIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 June 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. INTRODUCTION

1. The applicant is a temporary occupant of an apartment in Zenica at ulica M. Tarabara 15. The applicant stated that, upon the request of pre-war occupancy right holder, the Zavidovići Municipality – Service for Administration of Economic Activities issued a procedural decision on 1 June 2001 entitling the pre-war occupant to repossess his apartment. The same procedural decision ordered the applicant to vacate the apartment within 15 days without any right to alternative accommodation.
2. The applicant appealed against the procedural decision in question. The appeal does not have suspensive effect. The proceedings upon the appeal are still pending.
3. On 8 October 2001 the Zavidovići Municipality – Service for Administration of Economic Activities issued a conclusion scheduling the applicant's eviction for 31 October 2001. On 16 November 2001 the applicant informed the Chamber that the eviction was not carried out for unknown reasons. The Chamber has no information on whether the eviction has been carried out after this date.
4. The applicant pointed out that she occupies the apartment in question on the basis of a procedural decision of the Zavidovići Municipality of 11 November 1995. Before the armed conflict, the applicant lived with her family in the house of M.Š., which she used without paying any compensation and which was destroyed during the armed conflict. She states that she lost her husband during the armed conflict and that she is single mother with three children. She also does not have any means to provide herself with another accommodation.
5. The applicant complains of violation of her right guaranteed under Article 8 of the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was submitted on 13 November 2001 and registered on the same day. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to prevent her eviction or to provide her with alternative accommodation. On 16 November 2001 the President of First Panel rejected the request for provisional measure.

III. OPINION OF THE CHAMBER

7. 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."
8. 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 this part of the application is manifestly ill-founded.
9. As to the applicant's claim that she has been denied the right to alternative accommodation, the Chamber notes that she is neither entitled to such accommodation under domestic law, nor does the European Convention on Human Rights 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

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the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible as well.

IV. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(Signed)
Ulrich GARMS
Registrar of the Chamber

(Signed)
Michèle PICARD
President of First Panel