



DECISION ON ADMISSIBILITY

Case no. CH/01/8577

Fatima IBRIČIĆ

against

FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 April 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 application was introduced on 14 December 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to suspend the enforcement of the procedural decision on her eviction until she is provided with an apartment for temporary use or if in the meantime her family house is reconstructed. On 17 December 2001 President of the First Panel decided not to order the provisional measure requested.

2. On 13 January 2000 Municipal Court II in Sarajevo ordered the applicant to vacate the apartment she occupies in Sarajevo at ulica Vladimira Nazora 12 (formerly Vase Butozana 21 a) and to deliver it to the plaintiff within 15 days. On 8 June 2001 the Cantonal Court in Sarajevo passed a judgement rejecting the applicant's appeal and confirming the first instance judgement.

3. On 24 September 2001 the Municipal Court II in Sarajevo issued a procedural decision on the enforcement of its judgement. On 1 November 2001 the Municipal Court II in Sarajevo rejected the applicant's appeal against its procedural decision on enforcement and the applicant's proposal for the suspension of the enforcement.

4. The applicant states that her pre-war house at Andreja Andrejevića 96 (former Aleja B. Srebrene 124) in Sarajevo is completely destroyed due to the hostilities. The applicant complains that she has no alternative accommodation.

II. OPINION OF THE CHAMBER

5. 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."

6. The Chamber notes that the decision of the Municipal Court II allows the owner to repossess the apartment. The applicant no longer has any 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.

7. 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 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)
Michèle PICARD
President of the First Panel