



DECISION ON ADMISSIBILITY

Case no. CH/01/8624

Ibrahim and Muhterema MUHAREMOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 March 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 31 December 2001. The Muharemovićs requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent their eviction from an apartment located at ul. Žrtava fašizma no. 2, in Sarajevo, the Federation of Bosnia and Herzegovina (the “apartment”), until a request for reinstatement into their pre-war apartment is decided. The formal temporary occupancy right holder of the apartment is one of the spouses, Mrs. Muhterema Muharemović. On 31 December 2001 the President of the First Panel decided not to order the provisional measure requested.

2. The applicants complain, in relevant part, of a decision of the Sarajevo Cantonal Administration for Housing Affairs (the “Administration”) dated 23 July 2001 confirming the occupancy right over the apartment at ul. Žrtava fašizma no. 2, in Sarajevo, in favour of its pre-war occupancy right holder and ordering to Ms. Muharemović to vacate the apartment in 15 days. No alternative accommodation was granted to the applicants, as they submitted the request for repossession of their pre-war apartment. According to information orally received from the applicant Ms. Muharemović, she failed to submit an appeal against the procedural decision of 23 July 2001.

II. OPINION OF THE CHAMBER

3. 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.”

4. 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.

III. CONCLUSION

5. 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