



DECISION ON ADMISSIBILITY

Case no. CH/02/12207

Rajka MANDIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 4 September 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from an apartment which she occupies until the court proceedings concerning the apartment are completed. On 8 October 2002, the Chamber decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Administration for Housing Affairs of Canton Sarajevo of 23 August 2002, ordering her eviction from an apartment which she occupies. The eviction was ordered because the pre-war occupant, S.K., has obtained a decision from the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) entitling her to regain possession of the apartment and terminating the applicant's temporary right to use it.

3. The applicant further complains that, notwithstanding the CRPC decision and the conclusion on enforcement of the Administration for Housing Affairs of Canton Sarajevo, her eviction should be suspended since the allocation right holder of the apartment, the School of Architecture in Sarajevo, filed an action before the Municipal Court in Sarajevo against S.K. on 20 November 2000 in order to establish that S.K.'s occupancy right over the apartment concerned ceased. It appears that these proceedings are still pending.

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. The Chamber notes that the applicant was ordered to vacate the apartment concerned on the ground that she had no right under domestic law to occupy it. The Chamber also notes that the conclusion on enforcement of the Administration for Housing Affairs of Canton Sarajevo was issued pursuant to a CRPC decision which is final and binding under domestic law and that it was taken to allow the pre-war occupancy right holder to repossess the apartment. 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.

III. CONCLUSION

6. 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