



DECISION ON ADMISSIBILITY

Case no. CH/02/7950

Edita MUJKIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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)(a) of the Agreement, as well as Rules 49 and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. On 13 February 1986, the applicant concluded a contract on use of an apartment located in Sarajevo, Gradačaćka Street. She lived in that apartment until May 1992, when she left Bosnia and Herzegovina because of the armed conflict. The applicant currently lives in Australia.
2. The applicant alleges that, after her husband left in 1997, her parents were evicted from the apartment in question and sent to their apartment, which was devastated due to the armed conflict. According to a certificate from the Administration for Housing Affairs of 8 April 1997, the applicant's parents handed over the apartment on Gradačaćka Street to this organ on 28 March 1997.
3. The applicant claims that she did not receive any information as to why her parents were forced out of her apartment. She states that she was not informed that she should request repossession of her apartment, and she only learned this after all the time limits had expired for the submission of such a request. The applicant states that news broadcasts from Bosnia and Herzegovina have not been organised in Australia; therefore, she could not find out that she had to submit a request for repossession of her apartment.
4. The applicant also points out that she does not understand on what grounds her occupancy right was revoked, or the time limits for submission of requests, since she has never received any document on the seizure of her apartment. As a result, she could not have appealed against the seizure of her apartment. Finally, she contends that because of time and distance, she could not be informed about property and legal issues; therefore, she has been prevented from returning to her apartment.
5. The applicant alleges that her right guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights has been violated.

II. RELEVANT LAW

6. According to the Law on Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99), the deadline for submitting a claim for repossession of apartments that were declared abandoned expired on 4 July 1999. For apartments that were not declared abandoned, this deadline expired on 4 October 1999.
7. On 21 December 2001, the decision of the High Representative Amending the Law on Cessation of the Law on Abandoned Apartments was published in the Official Gazette of the Federation of Bosnia and Herzegovina no. 56/01. It entered into force eight days after the publication in the Official Gazette, *i.e.*, on 29 December 2001. It provides that requests for the repossession of all apartments which had been either destroyed or devastated may be submitted within 6 months from the entry into force of the Law, *i.e.*, until 29 June 2002.

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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"
9. The Chamber notes that the applicant did not submit a request for repossession of her apartment and that the deadline for submitting such a request had already expired in 1999. Although the applicant claims that she was not aware of the requirement or the time limits for submission of a request for repossession of her pre-war apartment because she lives in Australia, the Chamber observes that this information was contained in valid laws published in the appropriate Official Gazettes. Accordingly, the Chamber finds that the applicant did not, as required by

Article VIII(2)(a) of the Agreement, exhaust the effective domestic remedies. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel