



DECISION ON ADMISSIBILITY

Case no. CH/02/8645

Hajrija GANIJA

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 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) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The applicant is the temporary user of an apartment in Sarajevo. The pre-war occupancy right holder initiated proceedings for reinstatement into possession of the apartment occupied by the applicant.
2. On 18 December 2001, the Administration for Housing Affairs of Sarajevo Canton issued a Conclusion by which it scheduled the applicant's eviction for 8 January 2002. The Conclusion terminated the applicant's right to use the apartment in question. It also stated that the applicant has no right to alternative accommodation, as previously established by the first instance procedural decision of the Administration for Housing Affairs, because she did not submit a request for repossession of her pre-war property in Gornji Kotorac in the Republika Srpska (Srpsko Sarajevo).
3. However, the applicant submitted a certificate to the Chamber that confirms that she requested repossession of her pre-war property on 14 December 2000.
4. The applicant complains that her right to home and to property and her right to a fair hearing have been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was submitted to the Chamber on 4 January 2002 and registered on the same day. The applicant requested the Chamber, as provisional measure, to order to the respondent Parties to take all necessary action to prevent her eviction from the apartment in question.
6. On 7 January 2002 the Chamber decided to reject the provisional measure requested.

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. With regard to the respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton (Uprava za stambenje pitanja Kantona Sarajevo), responsible for the proceedings complained of by the applicant, is an organ of the Canton, the conduct of which engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.
9. 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 this part of 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 this part of the application inadmissible.
10. As to the applicant's claim that she has been improperly denied the right to alternative accommodation, the Chamber notes that the European Convention on Human Rights does not 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.

IV. CONCLUSION

11. 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