



DECISION ON ADMISSIBILITY

Case no. CH/02/8688

Habiba KICARA

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 10 May 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice- President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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)(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 16 January 2002. It concerns an apartment dispute before the Administration for Housing Affairs of Sarajevo Canton (the "Administration")(Uprava za stambena pitanja Kantona Sarajevo ("Uprava"). The apartment is located at ul. 12 Marta no. 16 in Sarajevo, the Federation of Bosnia and Herzegovina (the "apartment"). The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction, from the apartment in question, scheduled for 22 January 2002. On 17 January 2002 the President of the Second Panel decided not to order the provisional measure requested. The Chamber has no information whether the applicant has been evicted.

2. The applicant complains to the Chamber about three decisions by which the pre-war occupant's right over the apartment has been confirmed: a decision of the Commission for Real Property Claims of Displaced Persons and Refugees issued on 1 February 2000; a procedural decision of the Administration issued on 6 August 2001; and a conclusion of the Administration issued on 8 August 2001. In addition she complains because she was ordered to vacate the apartment, with no right to alternative accommodation. According to the Administration the applicant uses the apartment without any legal grounds.

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. In regard to the two respondent Parties, the Chamber notes that the Administration for the proceedings complained of by the applicant is an administrative organ of the Federation of Bosnia and Herzegovina. 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.

5. The Chamber further notes that the applicant was ordered to vacate the apartment pursuant to a lawful decision terminating a right of temporary use. The Administration took this decision in order to enable the pre-war occupant to regain possession of 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 this part of the application inadmissible as well.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel