



## **DECISION ON ADMISSIBILITY**

**Case no. CH/02/8694**

**Hata HAJDAREVIĆ**

**against**

**THE FEDERATION 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

## **I. INTRODUCTION**

1. The case concerns the applicant's attempts to prevent her eviction from an apartment which she occupies and to obtain alternative accommodation.
2. The applicant claims that "she has been deprived of her basic right and she has no right to accommodation" because the Administration for Housing Affairs of Canton Sarajevo (the "Administration") wrongly assessed the facts pertaining to her case.

## **II. FACTS**

3. The applicant is a temporary occupant of an apartment located in Vogošća at Igmanska Street no. 57. On 7 January 2002, acting *ex officio* in establishing the right of use of the apartment, the Administration issued a procedural decision establishing the termination of the applicant's occupancy right and ordering the eviction of the applicant within three days. There is no evidence that the applicant submitted an appeal against this decision, which in any case would not have suspensive effect.
4. The applicant complains that the Administration wrongly establish the facts. The applicant states that she lived in Rogatica in 1991. Her husband was killed during the armed conflict as a member of the Army of Bosnia and Herzegovina. She is a single mother with three children and, according to the applicant, she is entitled to the right to alternative accommodation.

## **III. PROCEEDINGS BEFORE THE CHAMBER**

5. The application was submitted to the Chamber on 17 January 2002. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary steps to suspend her eviction for the next two months. On 18 January 2002 the President of the Second Panel decided to reject the provisional measure requested.

## **IV. OPINION OF THE CHAMBER**

6. 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."
7. The Chamber notes that the applicant complains that the Administration wrongly assessed the facts pertaining to her case and misapplied the law. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for that of the national courts (*see, e.g.*, case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). There is no evidence that the Administration failed to act fairly as required by Article 6 of the Convention. 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.
8. In addition, with respect to the applicant's claim that she has been 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.

**V. CONCLUSION**

9. 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