



DECISION ON ADMISSIBILITY

Case no. CH/02/8997

Fatima OMERKIĆ

against

THE FEDERATION BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 February 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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. FACTS AND COMPLAINTS

1. The applicant is a temporary occupant of an apartment located at Titova Str. 27, in Sarajevo, which she was allocated on 25 January 1992.
2. On 8 November 2001, upon the request of D.K., the Administration for Housing Affairs (the "Administration") issued a procedural decision declaring that D.K. is the pre-war occupancy right holder over the apartment in question and allowing her to return into possession of the apartment. By the same decision, the applicant was ordered to vacate the apartment within 15 days, without the right to alternative accommodation. On 20 December 2001, the applicant appealed against this decision. On 4 February 2002, the Administration issued a conclusion on enforcement scheduling the applicant's eviction for 25 February 2002.
3. The applicant complains that her husband is a member of the Army of Bosnia and Herzegovina and that the Federal Ministry of Defence allocated him an apartment at Muhameda Hadžijahića Str., in Sarajevo, but he cannot move into that apartment because it is occupied by other persons. Upon the request of the Federal Ministry of Defence, proceedings have been initiated before the Administration for Housing Affairs of the Municipality Novo Sarajevo for the eviction of these persons. The Administration issued a procedural decision ordering the occupants of the apartment to vacate it within 90 days, and as they are refugees, they are entitled to alternative accommodation.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was submitted to the Chamber on 21 February 2002 and registered on the same day. The applicant requested an unspecified order for a provisional measure. It appears from the complaint that such order could relate to the suspension of the applicant's eviction from the apartment at Titova Str. 27 and to finding a solution for her housing problem. On 22 February 2002, the President of First Panel decided not to order any provisional measure.

III. OPINION OF THE CHAMBER

5. 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."
6. 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. In these circumstances, the Chamber finds that the complaint does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that it 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.
7. As to the applicant's claim that she has been denied the right to housing, the Chamber notes that she is neither entitled to alternative accommodation under domestic law, nor does the European Convention on Human Rights contain a right to housing. 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

8. 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