



DECISION ON ADMISSIBILITY

Case no. CH/ 02/9416

Azra HAJVAZOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 5 March 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent the owner of the apartment DD "Destilacija" Teslić from disposing of the apartment until the civil proceedings are finished. On 6 May 2002, the Second Panel decided not to order the provisional measure requested.
2. The applicant complains of a violation of Article 1 of Protocol 1.
3. The applicant's father, who died in 2001, was the occupancy right holder over the apartment located at Sveti Sava no. 30a in Teslić. Her mother died during the war. The applicant alleges that she was living in her parents' household until 1992 when, because of the armed conflict, she had to leave.
4. The applicant alleges that after her father's death she requested from the owner of the apartment to transfer the occupancy right over the apartment from her father's name to her name. However, the owner of the apartment has not replied to her request to date. The applicant further alleges that she initiated administrative proceedings before the Department for Housing Affairs of the Municipality of Teslić to ascertain her membership of the family household. Because of the silence of administration she initiated an administrative dispute before the Supreme Court of the Republika Srpska. The Chamber does not have records on the above.
5. The applicant also alleges that in January 2002 she requested the contract on use's renewal but the owner rejected it and that she then initiated civil proceeding before the First Instance Court in Teslić. The Chamber does not have records on the above.

II. OPINION OF THE CHAMBER

A. The applicable rule

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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

B. Specific reasoning and conclusion

7. The Chamber notes that the applicant's complaint is premature as the proceedings are still pending before the First Instance Court in Teslić. Accordingly, the domestic remedies have not been exhausted. The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

8. 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