



DECISION ON ADMISSIBILITY

Case no. CH/02/9495

Stojanka MILIJAŠEVIĆ

against

BOSNIA AND HERZEGOVINA

and

THE REPUBLIKA SRPSKA

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

I. INTRODUCTION

1. The application was introduced on 12 March 2002. The applicant requested the Chamber, as provisional measure, to order the respondent Party to establish a commission to evaluate damage to the applicant's house and other property and to order the respondent Party to reinforce the walls supporting the applicant's house and to fit glass windows. On 7 February 2003 the Chamber decided to reject the request for provisional measure.

II. FACTS

2. The applicant lived with her family at Nožičko bb, Nožičko, in the Municipality Mrkonjić Grad, Republika Srpska. On a date unknown to the Chamber during the armed conflict and before the entry into force of the Dayton Agreement on 14 December 1995, the applicant's house and other property were damaged by operations of the Croat Defence Council (HVO). The applicant claims that the violation of her rights continued after 14 December 1995 because in the period immediately after the coming into force of the Dayton Agreement the looting of her property continued.

3. The applicant alleges that on 10 June 1999 she filed a claim for compensation of war damages to the Executive Board of the Municipal Assembly Mrkonjić Grad, in the Republika Srpska but never received any reply. She also alleges that the Commission for Damage Evaluation never went to evaluate the damage that occurred to her property.

4. On 30 November 1999 the applicant addressed the Association of Citizens "Terra" –mobile team- in Mrkonjić Grad, an association offering legal aid. On 9 December 1999 the organization informed the applicant that it could not help her with regard to her request for compensation of war damages.

III. COMPLAINTS AND ALLEGED VIOLATIONS OF HUMAN RIGHTS

5. The applicant claims that the organs of the Republika Srpska have not taken any action to protect her rights and in particular that the competent organs of the Municipality of Mrkonjić Grad failed to act upon her request to be compensated for war damages to her property. The applicant states that she does not have the financial means to initiate proceedings before the relevant authorities and courts.

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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ... (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 applicant directs her application against Bosnia and Herzegovina. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the violation she complains of, nor can the Chamber on its own motion find any such evidence. The application is therefore incompatible *ratione personae* with the Agreement insofar as it is directed against Bosnia and Herzegovina.

8. The Chamber finds that the claims concerning damage done to the applicant's property before 14 December 1995, which is the date on which the Agreement entered into force, are incompatible *ratione temporis* 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. In so far as the applicants alleges that the looting continued after 14 December 1995 the applicant did not sufficiently substantiate when and what damages occurred to her property. Instead the applicant only

made a general statement that in the territory of the village Podrašnica looting continued in the immediate period after 14 December 1995. The Chamber finds that the applicant did not sufficiently substantiate her claim that damage was done to her property after 14 December 1995 and that therefore this part of the application is inadmissible as manifestly ill-founded.

9. Finally, regarding the applicant's claim that the competent organs of the respondent Party failed to protect her rights the Chamber notes that the applicant applied to the Municipality of Mrkonjić Grad on 10 June 1999, from which she never got any reply. She failed to initiate an administrative dispute. The applicant has not shown that this remedy would have been ineffective and it does not appear so to the Chamber. The fact that the applicant states that she does not have the necessary financial means to do so, does not exempt her from this requirement, as she could have applied for public legal aid and a waiver of court fees. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible in this part, too.

V. CONCLUSION

10. 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