



DECISION ON ADMISSIBILITY

Case no. CH/02/9832

Kadira SKENDER

against

THE FEDERATION OF 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 KAPIC, 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 2 April 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from an apartment which she occupies. On 2 April 2002, the Vice-President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Service for General Administration and Housing Affairs of the Municipality of Zenica (hereinafter: the Service) ordering her eviction from an apartment which she occupies. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it.

3. On 5 March 2002 the Service issued a procedural decision returning possession of the apartment occupied by the applicant to the prewar occupancy right holder, J.S. On 25 March 1999 the prewar occupancy right holder submitted a request for reinstatement into possession of the apartment in question. On 18 March 2002 the Service issued a conclusion permitting execution of the procedural decision and establishing that the applicant is not entitled to alternative accommodation and as such providing the applicant 15 days to vacate the apartment.

4. The applicant alleges she only received the procedural decision and the conclusion on 25 March 2002, giving her only 8 days notice before the eviction. The applicant claims that the legally prescribed deadlines have not been respected. She also argues that although she could appeal, an appeal does not stay the execution of the procedural decision. The applicant further alleges that she invested 2000 KM in renovating the apartment. She also points out that her child suffers from debilitating schizophrenia.

5. The applicant submits that her right to home has been violated and that she has been left without any legal remedy. She requests from the Chamber to postpone the eviction until the completion of a fair second instance proceeding. She also requests to be compensated for the sum of 2000 KM with the interest paid as of 1995. The applicant complains that she and her ill child have been pushed out onto the street without having secured any alternative accommodation.

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: ... (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."

B. Specific reasoning and conclusion

7. 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 and that the applicant has no right under domestic law to occupy the apartment. In these circumstances, the Chamber finds that the application does 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.

8. As to the applicant's claim that she has been denied the right to alternative accommodation, the Chamber notes that she is neither entitled to such accommodation under domestic law, nor does the European Convention on Human Rights 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.

III. 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