



DECISION ON ADMISSIBILITY

Case no. CH/02/9866

T. L.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitimir 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. On 13 January 1997, the applicant concluded a contract on use of an apartment located at Hamdije Kreševljakovića, Sarajevo, for an indefinite period. The applicant alleges that she invested 16,683 KM in reconstruction of the apartment in question.

2. On 19 August 1998, the pre-war occupancy right holder over the apartment in question, M.G., filed a request for repossession of the apartment to the Administration for Housing Affairs of Canton Sarajevo. On 30 January 2002, the Administration for Housing Affairs issued a procedural decision granting repossession of the apartment in question to M.G., the occupancy right holder. Accordingly, the applicant's right to use the apartment ceased, and she was ordered to vacate the apartment within ninety days from the date of delivery of the procedural decision. The Chamber is unaware of any conclusion on enforcement of the procedural decision of 30 January 2002 or any appeal by the applicant against this decision.

3. The applicant alleges that the occupancy right holder over the apartment in question is an Australian citizen and his housing issues have been resolved in Australia. Therefore, she claims that an injustice has been done to her. The applicant also emphasises that her husband is a former soldier, she has two children, and this apartment is their only accommodation.

4. The applicant complains that her rights guaranteed by the Article 6 and 9 of the European Convention on the Human Rights (the "Convention") have been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was submitted to the Chamber on 5 April 2002.

6. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary steps to prevent the eviction of her family until she is provided with alternative accommodation and compensated for the money she invested in reconstructing the apartment in question. On 4 September 2002, the Chamber decided not to issue the provisional measure requested.

III. OPINION OF THE CHAMBER

7. 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."

8. 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 the application inadmissible.

9. The Chamber further notes that the applicant has submitted a claim for compensation. The Chamber observes that it can only award compensation if it makes a finding of a violation of the Agreement, which it has not found in this case. Consequently, the claim for compensation cannot be considered.

IV. CONCLUSION

10. 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