



DECISION ON ADMISSIBILITY

Case no. CH/03/12957

Hanka HALIMANOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 2 April 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. INTRODUCTION

1. The application was introduced on 2 October 1998. 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 she currently occupies in Sarajevo, at Oslobodilaca Sarajeva no. 4. On 19 February 2003 the President of the First Panel decided not to order the provisional measure requested.
2. The application concerns the applicant's request to be provided with an adequate accommodation until her return to her pre-war place of residence.
3. The applicant is a displaced person from Gođenje, Han Pijesak, the Republika Srpska. The applicant filed the request for voluntary return into Gođenje, Han Pijesak. However she cannot repossess her pre-war house as it is completely destroyed.

II. FACTS

4. On 4 October 2000 the Administration for Housing Affairs of the Sarajevo Canton ("the Administration") issued a procedural decision confirming that Slavko Radović is the occupancy right holder over the apartment in question, and terminating the applicant's right to use the apartment. The applicant was obliged to vacate the apartment within 90 days. The Administration decided that the applicant has a right to alternative accommodation.
5. On 17 January 2003 the Administration issued a procedural decision obliging the applicant to vacate the apartment in question within 15 days. It was established that the applicant has no right to alternative accommodation, because she refused the alternative accommodation offered to her by the Administration.
6. On 11 February 2003 the Administration issued a conclusion on enforcement of the procedural decision of 17 January 2003. The eviction was scheduled for 27 February 2003.

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 this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of 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 in part.
9. As to the applicant's claim that she has not been provided the right to alternative accommodation, the Chamber notes that she refused the alternative accommodation offered by the Administration. Furthermore, 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 inadmissible as well.

IV. 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