



DECISION ON ADMISSIBILITY

Case no. CH/03/13102

Mirsada KUJUNDŽIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 1 April 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Giovanni GRASSO
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

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 applicant requested the Chamber to issue an order for provisional measures annulling its order for a provisional measure of 6 February 2003 in case no. CH/03/10896 *Andelka Svitlica Dražić against the Republika Srpska*. By this provisional measure the Chamber suspended the forced eviction of Mrs. Svitlica Dražić from an apartment in Banja Luka claimed by the applicant. On 1 April 2003 the Chamber decided to reject the applicant's request for provisional measure. On the same date the Chamber adopted this decision.

2. The applicant complains about the Chamber's order for a provisional measure issued in the above mentioned case suspending the scheduled eviction of Mrs. Svitlica Dražić from an apartment in Banja Luka, Đure Đakovića 10. The applicant states that she concluded a contract on exchange of the apartments with Mrs. Svitlica Dražić on 22 February 1992. However, according to the applicant this contract has never been signed and never been verified before the Court. On 25 July 2000 the applicant received a decision of the Commission for Real Property Claims of Refugees and Displaced Persons confirming her *bona fide* pre-war possession of the apartment in Banja Luka. On 19 April 2002 the Ministry of Refugees and Displaced Persons issued a conclusion on eviction. The eviction was scheduled for 28 January 2003, but was not carried out. The eviction was again scheduled for 7 February 2003. This eviction was postponed because the Chamber issued an order for provisional measure ordering the respondent Party to suspend the eviction of Mrs. Svitlica Dražić. The applicant complains that the Chamber's decision is issued only on the basis of the fact that the temporary occupant initiated court proceedings on 24 January 2003.

II. OPINION OF THE CHAMBER

3. 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."

4. The application is directed against the Republika Srpska as a respondent Party. However, in essence the applicant's complaint concerns the Chamber's order for a provisional measure issued in the *Andelka Svitlica Dražić* case.

5. The Chamber finds that the applicant's complaint does not concern an interference with her rights under the Agreement by the Republika Srpska, and, insofar as it appears to be directed against an order issued by the Chamber, it is incompatible *ratione personae* with the provisions of the Agreement. It follows that the application inadmissible pursuant to Article VIII(2)(c) of the Agreement.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel