



DECISION ON ADMISSIBILITY

Case nos. CH/98/1372

Ljubinka ČIROVIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 May 2000 with the following members present:

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

Mr. Anders MÅNSSON, 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 as well as Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. She has been seeking to gain ownership and regain possession of a garage in Novo Sarajevo which her husband bought in 1969. The husband was registered as the owner of the garage. The garage has been occupied by H.K. since January 1996.

2. In October 1995 the applicant's husband died while in Kragujevac, Federal Republic of Yugoslavia. When she attempted to have her husband's death registered in the Death Registry of Novo Sarajevo Municipality, it refused to recognise the death certificate which had been issued by the Yugoslav authorities.

3. On 20 February 1997 the applicant initiated proceedings before the Municipal Court II in Sarajevo to have H.K. evicted and to receive back rent and legal costs. The court, however, did not conclude the proceedings as the applicant had not completed inheritance proceedings and was not the official owner of the garage. On 3 April 1998 the applicant registered her husband's death with the Novo Sarajevo Municipality using a form from that municipality.

4. On 30 December 1999 the inheritance proceedings were completed and the applicant was named as the owner of the garage. The applicant's representative has told the Chamber that there may soon be a hearing before the Municipal Court II regarding the possible eviction of H.K.

II. COMPLAINTS

5. The applicant alleges a violation of her right to property. The applicant further complains about the behaviour of the municipal authorities which have been considering her case.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was received and registered on 18 December 1998. The applicant is represented by Ismet Mehić, a lawyer from Sarajevo.

7. The application was directed only against Bosnia and Herzegovina, but on 4 April 2000 the Chamber decided, *proprio motu*, that the case be considered as directed against the Federation of Bosnia and Herzegovina as well.

IV. OPINION OF THE CHAMBER

8. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated they have been exhausted. Additionally, according to Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement.

9. The applicant has directed her complaints against Bosnia and Herzegovina. The Chamber notes, however, that the authorities involved in this case are the authorities of the Federation of Bosnia and Herzegovina. Therefore, Bosnia and Herzegovina cannot be held responsible for any possible human rights violations.

10. With respect to the Federation of Bosnia and Herzegovina, the Chamber notes that the applicant currently has an action pending before the Municipal Court II in Sarajevo. While the case was filed in 1997, it was apparently suspended until the applicant had completed inheritance proceedings directly related to the claims before that court. In a submission to the Chamber, the applicant's representative has stated that with the completion of the inheritance proceedings, consideration of the case will likely be resumed soon. Therefore, it would appear that the applicant

has not exhausted domestic remedies. Further, there is no evidence that these remedies are ineffective.

11. Accordingly, the Chamber decides not to accept the application, as it is incompatible *ratione personae* in so far as it is directed against Bosnia and Herzegovina and as the applicant has not demonstrated that effective domestic remedies have been exhausted with respect to the Federation of Bosnia and Herzegovina.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel