



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/1689

Senka NESIMVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 13 March 1999 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Leif BERG, 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)(a) and Article VIII(2)(c) and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant is a resident of Kozarska Dubica of Bosniak origin.
2. On 8 June 1993, the applicant was injured by a bullet fired through the window of her home. Shortly afterwards, her house was completely destroyed by unknown persons.
3. On 11 October 1996, the Municipal Communal Institution of Kozarska Dubica certified that the applicant's house had been destroyed due to war actions and was unsuitable for living in. On the same date, the Municipal Social Welfare Centre issued a decision granting the applicant and her family the status of displaced persons, with effect from that date.
4. On 28 October 1996, the Commission for Accommodation of Refugees and Displaced Persons in Kozarska Dubica issued a decision entitling the applicant and her family to occupy a property in Kozarska Dubica, which she currently occupies. The applicant states that this house belongs to a relative of hers.
5. On 22 December 1997, the Civil Security Service in Kozarska Dubica issued a certificate certifying the events surrounding the applicant's injuries.
6. On 2 January 1998, the applicant applied to the Municipal Secretariat for Soldiers and War Victims Issues ("the Secretariat"), asking that she be granted the status of a civilian war victim. This request was refused on 4 February 1998, on the ground that there had been no war activities in Kozarska Dubica at the time the applicant was injured. Accordingly, her injuries could not have been suffered as a result of enemy actions. On 19 February 1998, she appealed to the Ministry for Soldiers and War Victims Issues ("the Ministry") against this decision. Her appeal was refused on 23 February 1998. She has not initiated proceedings against this decision. The applicant claims that she has been discriminated against because she is not of Serb origin.

II. COMPLAINT

7. The applicant alleges violations of her rights as protected by Articles 8, 13 and 14 of the Convention and Article 1 of Protocol No. 1 to the European Convention. She also alleges that Annexes 6 and 7 of the Dayton Agreement have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was introduced on 15 December 1998 and registered on the same day.

IV. OPINION OF THE CHAMBER

9. Before considering the merits of the case the Chamber must decide whether to accept the case, 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 that they have been exhausted, and according to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

10. The Chamber notes that the applicant has not initiated any court proceedings against the decision of the Ministry of 23 February 1998 rejecting her appeal against the decision of the Secretariat (see paragraph 6 above). Neither has she provided any evidence to show that the initiation of domestic proceedings would have been an ineffective remedy in her case. Accordingly, the applicant cannot be considered to have exhausted the domestic remedies available to her or to have shown that those remedies would be ineffective.

11. Accordingly, the Chamber decides not to accept the application as the applicant has not demonstrated that the effective domestic remedies have been exhausted within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel