



DECISION ON ADMISSIBILITY

Case no. CH/99/2319

Amela FERIZOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 October 1999 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Hasan BALIĆ
Mr. Dietrich RAUSCHNING
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina, currently resident in Sweden. Her father was the holder of the occupancy right over an apartment located at Miše Jazbeca Street No. 8, Banja Luka (“the first apartment”). On an unspecified date in 1994 the applicant’s father entered into a contract on exchange of the apartments and by that contract obtained the occupancy right over a smaller apartment located at Drage Malića Street No. 3, Banja Luka (“the second apartment”).

2. On 15 December 1998 the applicant’s mother succeeded into the occupancy right over the second apartment, after the applicant’s father died. Soon afterwards the applicant’s mother died. The applicant claims that she and her family lived in the first apartment with her parents until they left Banja Luka.

3. On 11 June 1999 the applicant filed a request to the Ministry for Refugees and Displaced Persons (“the Ministry”) in order to regain possession of the first apartment. There have been no developments in the proceedings before the Ministry.

II. COMPLAINT

4. The applicant complains of a violation of her right to the apartment.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 5 August 1999 and registered on the same day. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent the holder of the allocation right to dispose with the apartment.

6. On 8 September 1999 the Chamber refused the request for a provisional measure. On the same day it considered the admissibility of the application. On 7 October 1999 the Chamber adopted the present decision.

IV. OPINION OF THE CHAMBER

7. 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.

8. The Chamber notes that the applicant filed a request to the Ministry on 11 June 1999. The Ministry was obliged to decide upon her request by 11 July 1999. As it took no action, the applicant had the opportunity to appeal against the “silence of administration”. However, she has not demonstrated that she tried to lodge such an appeal. Moreover, there is no evidence that the domestic remedies would not be effective.

9. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(a) of the Agreement, as the applicant has not exhausted the given effective domestic remedies.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel