



DECISION ON ADMISSIBILITY

Case no. CH/99/2916

Munevera HUBJER

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 November 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK

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) 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 displaced person from Goražde, Republika Srpska, where her late husband owned property. In March 1996 the applicant moved into an apartment in Mlade Bosne St. no. 58, Ilidža, Federation of Bosnia and Herzegovina. The applicant has neither instituted inheritance proceedings nor has she initiated any other proceedings to restore the property in the Republika Srpska to her possession. The applicant applied for voluntary return to Republika Srpska.

2. On 17 June 1999 the Municipal Court II in Sarajevo rendered a judgment by default ordering the applicant to move out of the apartment in Ilidža. The action was brought by the previous holder of the occupancy right. It is stated in the judgment that the applicant is occupying the apartment in question without any legal basis.

3. On an unspecified date the applicant filed an appeal with the Cantonal Court in Sarajevo against the aforementioned judgment. No decision has been issued regarding the appeal.

II. COMPLAINTS

4. The applicant alleges violations of her rights to respect for her home under Article 8 of the European Convention on Human Rights, to property under Article 1 of Protocol No. 1 to the Convention, and to liberty of movement and residence under Article 2 of Protocol No. 4 to the Convention. The applicant further complains that it is not possible for her to visit her home in the Republika Srpska because there have been no organised visits to that entity.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 27 September 1999 and registered on the same day.

6. In her application the applicant included a request for provisional measures. The Chamber refused this request on 6 October 1999.

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. Further, according to Article VIII(2)(c), the Chamber shall also dismiss any case which it considers manifestly ill-founded or incompatible with the Agreement. The Chamber must consider the admissibility of each claim independently.

8. The applicant states that she has been denied her right to respect for her property and to respect for her home regarding the property in the Republika Srpska. However, the applicant is obliged to pursue her complaint before the relevant domestic authorities before the Chamber may consider it. It does not appear, however, that she availed herself of the various remedies available in the Republika Srpska to attempt to regain her property. Further, the applicant has made no showing that the domestic remedies available to her would be ineffective.

9. The applicant further alleges that the Federation is denying her right to property and respect for home regarding her current residence. However, the applicant currently has an appeal pending before the Cantonal Court regarding this apartment. Therefore, the applicant has not exhausted the domestic remedies available to her. Further, the applicant has made no showing that such domestic remedies would be ineffective.

10. Accordingly, with respect to these claims, the Chamber decides not to accept them pursuant to Article VIII(2)(a) of the Agreement as the applicant has not demonstrated that effective domestic

remedies have been exhausted.

11. With respect to the applicant's claim that she has been denied her liberty of movement, the applicant has not shown that there is any link between the alleged human rights violations and the actions of the Federation. There is no evidence to show that the Federation has prohibited the applicant from returning to the Republika Srpska.

12. Regarding the Republika Srpska, the applicant has presented no evidence that that entity has taken any actions that would prohibit her from entering the Republika Srpska and visiting her home.

13. Accordingly, the Chamber decides not to accept the complaint regarding the applicant's liberty of movement, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

14. Finally the applicant asserts that it has not been possible for her to visit her home in the Republika Srpska because there have been no organised visits to the Republika Srpska. This claim, however, does not involve issues which are among the human rights protected by the Agreement.

15. Accordingly, the Chamber decides not to accept this part of the application, it being incompatible *ratione materiae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

16. 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