



DECISION ON ADMISSIBILITY

CASE No. CH/00/5616

Marina SUKNO

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 June 2001 with the following members present:

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

Mr. Peter KEMPEES, 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 28 August 2000. On 8 May 2001 the applicant requested the Chamber to order the respondent Party, as a provisional measure, to reinstate her into the possession of an apartment in Sarajevo, Ulica Danijela Ozme 13, in which she lived before the war with her late father, who was the occupancy right holder of the disputed apartment. On 4 June 2001 the Chamber decided not to order the provisional measure requested.
2. The applicant complains that the domestic authorities erroneously established the facts on the bases which they decided that she had no right to repossess the disputed apartment as she was not a member of the family household of her late father.

II. OPINION OF THE CHAMBER

3. The Chamber notes that the subject matter of the dispute has been decided upon by the administrative organs and ultimately in a judgment of the Sarajevo Cantonal Court of 19 July 2000. The Chamber recalls that, according to the well-established case-law of the European Court of Human Rights in this respect, it is generally for the domestic courts to assess the evidence before them. The Chamber will not, therefore, review decisions of domestic courts on the facts without good reason. The conclusion reached by the domestic authorities in the present case does not appear unreasonable or arbitrary. Confirming this principle, the Chamber has held that it is not within its province to substitute its own assessment of the facts for that of the domestic courts (see case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 10, Decisions August-December 1999). Only where it is alleged or apparent that the evaluation of the evidence by the domestic court is grossly inadequate, devoid of the appearance of fairness and has patently led to a miscarriage of justice, the Chamber might examine the establishment of the facts by the domestic court (see case no. CH/98/638, *Damjanović*, decision on admissibility and merits delivered on 11 February 2000, paragraphs 80-82). In the light of all the material in its possession, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application must be rejected as manifestly ill-founded, in accordance with Article VIII(2)(c) of the Agreement.

III. CONCLUSION

4. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel