



DECISION ON ADMISSIBILITY

Case no. CH/99/2700

Ramiz BRĐANIN

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 January 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant was an occupancy right holder over an apartment at Bulevar Meše Selimovića no. 31/11, Sarajevo. He was granted the occupancy right by a decision dated 26 July 1984, issued by the company "Šipad Invest" where he is still employed.
2. By a judgment of 7 December 1990, the Municipal Court II in Sarajevo granted the applicant's wife's request for a divorce. After the judgment had become final and binding, the applicant's ex-wife requested the Municipal Court to decide, under the Law on Housing Relations, who was entitled to the occupancy right over the apartment. By a decision of 2 March 1995 the court declared the applicant's ex-wife as the exclusive occupancy right holder over the apartment. The applicant was heard before the court.
3. On 25 December 1997 the Municipal Court issued a decision on enforcement of the decision of 2 March 1995. According to this enforcement decision, the applicant had been provided with alternative accommodation and had to vacate the apartment in question within a prescribed time-limit. On 17 June 1999 the Municipal Court issued an eviction order and scheduled the applicant's eviction for 28 June 1999. Since the applicant did not vacate the apartment, the Municipal Court, on 8 October 1999, issued a second eviction order and scheduled the applicant's eviction for 20 October 1999.
4. On 19 October 1999 the applicant informed the Chamber that his eviction from the apartment was scheduled for 20 October 1999 and requested the Chamber to order a provisional measure to prevent his eviction. The applicant did not state reasons for preventing the eviction. However, he submitted a certificate issued on 9 August 1999 by the Municipality Novo Sarajevo. The certificate states that the Municipality Novo Sarajevo has been dealing with the applicant's request for accommodation and that it expects the applicant's housing problem to be solved in the near future.
5. On 15 December 1999 the applicant again requested the Chamber to issue the same provisional measure, since he had received another eviction order, scheduling his eviction for 28 December 1999. The applicant did not substantiate this request with any new facts or evidence.

II. COMPLAINTS

6. The applicant alleges that he lost his occupancy right by the domestic court decisions. Accordingly, he alleges a violation of his right to respect for his home under Article 8 of the European Convention on Human Rights. The applicant claims that he is in a difficult financial and family situation. His eighty year old mother, who is a displaced person from Žepa, Republika Srpska, has been living with him in the same apartment since 1995. Furthermore, the applicant is allegedly disabled with 50% invalidity and has not received his salary for seven months.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 14 July 1999 and registered on the same day.
8. On 20 October 1999 the Vice-President of the Chamber rejected the first request for a provisional measure. On 16 December 1999 the Vice-President rejected the second request, as the applicant had not substantiated the request with new facts or evidence.
9. The Chamber considered the case on 1 November 1999 and 11 January 2000. On the last mentioned date it adopted the present decision.

IV. OPINION OF THE CHAMBER

10. 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)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

11. The Chamber notes that the applicant was ordered to vacate the apartment as he had lost the occupancy right over the apartment by a final and binding court decision. Furthermore, he was provided with alternative accommodation pursuant to the applicable provisions. In these circumstances, the Chamber finds that the decisions ordering the applicant to vacate the apartment in question and later ordering his eviction had justifiable reasons under Article 8 of the Convention and that, consequently, there is no evidence of a violation of the applicant's rights.

12. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

13. 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