



DECISION ON ADMISSIBILITY

Case no. CH/00/4349

Fahrudin BARUČIJA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 4 July 2000 with the following members present:

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

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 is a citizen of Bosnia and Herzegovina. He lives in an apartment in Zenica (Ulica Crkvice 47) on the basis of a procedural decision issued on 8 November 1994 by his employer, the steelworks company "Zenica", allocating the apartment to him for permanent use. The competent municipal organ had declared the apartment abandoned on 21 December 1992.

2. On 28 May 1998 the pre-war occupancy right holder of the apartment, K.P., requested the Department for General Administration and Housing Affairs of the Municipality Zenica to be reinstated into possession. On 1 February 2000 that authority confirmed K.P.'s right to return to the apartment and decided that the applicant had to vacate it within 15 days from the delivery of the decision pursuant to Article 3 paragraph 4 of the Law on Cessation of Application of the Law on Abandoned Apartments. According to the decision, the applicant was a "multiple occupant" and was not entitled to alternative accommodation since he had lived with his father before the war. The applicant's forcible eviction was to take place on 15 June 2000.

II. COMPLAINTS

3. The applicant alleges that the administrative authorities have violated his right to respect for his home and his property. He also complains that he did not receive a fair hearing before the administration and that relevant facts of the case were not taken into account by the decision of 1 February 2000. Finally, the applicant claims that K.P. agreed that her occupancy right be cancelled and that she is now living in Croatia permanently.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 15 March 2000 and registered on the same day. On 25 May 2000 the applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary steps to prevent his forcible eviction. On 5 June 2000 the Chamber rejected this request.

IV. OPINION OF THE CHAMBER

5. Before considering the merits of the case the Chamber must decide whether to accept it, 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.

6. The Chamber notes that according to Article 1 of the Law on Cessation of Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 7/00), all regulations based on the Law on Abandoned Apartments passed between 30 April 1991 and the entry into force of this Law shall cease to be applied. Accordingly, the decision of 21 December 1992 declaring the apartment abandoned as well as the decision of 8 November 1994 allocating it to the applicant cannot constitute a legal basis for the continuing occupation of the apartment.

7. Moreover, the Chamber is not in a position to re-assess the classification of the applicant as a "multiple occupant" for the purpose of this Law. In these circumstances, the Chamber cannot find that the decision of the Department for General Administration and Housing Affairs of the Municipality Zenica of 1 February 2000 and its subsequent implementation would violate any of the applicant's rights guaranteed by the Agreement. As to the applicant's complaint that he has not received a fair hearing before that administrative body, the Chamber notes that the applicant could have instituted further proceedings before the courts to challenge the decision of 1 February 2000.

8. 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

9. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Andrew GROTRIAN
Acting President of the First Panel