



DECISION ON ADMISSIBILITY

Case no. CH/00/4947

Zuhdija OMANOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 2000 with the following members present:

Ms. Michèle PICARD, President
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

A. The particular facts of the case

1. The applicant is a citizen of Bosnia and Herzegovina. On 22 October 1997 the applicant's wife concluded a contract on use of the apartment at Ulica Huse Čehajića 1 in Velika Kladuša with the Community for Housing and Communal Issues in Velika Kladuša.
2. By a procedural decision of 24 February 2000 the Department for Urban Planning in the Administration for Urban Planning, Resources and Environmental Protection in Velika Kladuša decided that the apartment in question should be returned into possession of the pre-war occupancy right holder. The same procedural decision terminated the applicant's right to use the apartment and ordered him to vacate it within 15 days of receiving the decision. Before the war in Bosnia and Herzegovina the applicant lived with his mother and brother in the village of Trnovi in the municipality of Velika Kladuša and, apparently, his mother still lives in that village. The procedural decision established that on account of this, and the fact that the applicant is employed and receives a salary, he does not have a right to alternative accommodation.
3. On 6 March 2000 the applicant filed an appeal with the Cantonal Ministry for Urban Planning and Environmental Protection claiming, among other things, the right to alternative accommodation on the ground that his mother's pre-war house was totally destroyed. The Ministry rejected his appeal as ill-founded as the applicant and his wife do not have the status of displaced persons and therefore have no right to alternative accommodation.

B. Relevant domestic law

4. Paragraph 34 of the Instruction on Application of the Law on Cessation of Application of the Law on Abandoned Apartments, as amended (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 38/98, 12/99, 27/99 and 43/99; latest amendments entered into force on 28 October 1999), reads, in relevant parts, as follows:

“The notion of temporary user, whose housing needs are satisfied in another way, implies, *inter alia*:

....

iii) a person who does not have the status of refugee or displaced person, but has a sufficient income to provide for his accommodation.”

5. Article 1 paragraph 5 of the Law on Displaced Persons – Refugees and Exiled Persons (Official Gazette of the Federation of Bosnia and Herzegovina nos. 2/95 and 14/97) reads:

“Persons who escaped from the outskirts of the municipality endangered by war activities, or the district of Sarajevo, to other parts of the municipality, that is the district of Sarajevo, due to unsafe living conditions (devastated apartments or houses or immediate threat to life due to the war activities in the area) do not have the status of displaced persons – exiled persons.”

This law contains no mention of internally displaced persons.

II. COMPLAINTS

6. The applicant considers that his right to respect for his home under Article 8 of the European Convention on Human Rights has been violated, as well as his right to a fair hearing under Article 6 paragraph 1 of the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 22 May 2000 and registered on 23 May 2000. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction while the competent housing organ resolves his right to alternative accommodation. On 23 May 2000 the Chamber refused the applicant's request.

8. On 26 May 2000 he submitted a certificate issued by the Ministry of Labour, Social Policy, Refugees and Displaced Persons, Department of Velika Kladuša, demonstrating that he has a recognised status of internally displaced person. He has also submitted evidence that his own home and the pre-war family home he resided in with his mother and brother were destroyed. Based on this evidence, the applicant considers that he has a right to alternative accommodation.

IV. OPINION OF THE CHAMBER

9. 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.

10. With respect to the applicant's complaint that his right to respect for his home has been violated, the Chamber notes that the applicant does not complain of his eviction from the apartment in which he currently resides but rather of the fact that the competent organ has not provided him with alternative accommodation. The Chamber notes, however, that the applicant does not have the status of refugee or displaced person and that he has adequate means to provide for his own accommodation. Thus, the applicant does not belong to the category of persons who by law have a right to alternative accommodation. In these circumstances, the Chamber cannot find a violation of the applicant's rights under Article 8 of the Convention.

11. As regards the complaint regarding the proceedings in the case, the Chamber cannot find, on the basis of the information supplied by the applicant, any irregularities that would lead it to conclude that the competent bodies have violated his rights under Article 6 paragraph 1 of the Convention.

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)
Michèle PICARD
President of the First Panel