



DECISION ON ADMISSIBILITY

Case no. CH/00/4955

Salko TABAKOVIĆ

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

1. The applicant is a citizen of Bosnia and Herzegovina. He is displaced from Višegrad, Republika Srpska. On an unspecified date he moved into an apartment in Sarajevo in ulica Behdžeta Mutevelića 53. The applicant states that he lived with K.E., who had been occupying the apartment for some time. K.E. left for the United States about a month after the applicant moved into the apartment.

2. The apartment in question had never been declared abandoned. The holder of the occupancy right over it is Z.M., who initiated a court dispute for the eviction of illegal users K.E. and V.D. On 29 April 1999 the Municipal Court II in Sarajevo issued a judgment ordering K.E. and V.D. to leave the apartment and to turn it over to the plaintiff, Z.M., for possession and use, free of persons and their belongings. This judgment did not mention the applicant, but did specify that the apartment must be vacated by all persons residing there.

3. On 11 October 1999 the Court permitted the execution of the decision of 29 April 1999. The applicant filed a complaint against this procedural decision, claiming that it could not be applied against him as he was not named as a defendant in the judgment of 29 April 1999 nor was he able to return to his pre-war home. On 9 March 2000 the court issued a procedural decision rejecting the applicant's complaint as ill-founded and upholding the decision of 11 October 1999. The court reasoned that the applicant lived in the apartment with the named defendants who had no legal grounds to use the apartment. The Court stated that effective judgment relates to all illegal users, including the applicant. On 20 April 2000 the applicant filed a complaint against the decision of 9 March 2000 with the Cantonal Court in Sarajevo. There is no evidence in the application that the Cantonal Court issued a decision on this complaint.

II. COMPLAINTS

4. Although the applicant does not state specific violations of human rights, he appears to allege a violation of his right to respect for his home under Article 8 of the European Convention on Human Rights and the right to a fair hearing under Article 6 paragraph 1 of the Convention. He vaguely disputes the facts as stated in the original judgment and claims that the court never invited him to a hearing.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 23 May and registered on the same day. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent the the eviction scheduled for 24 May 2000 until he and his wife were able to return to their house in the Republika Srpska.

6. On 23 May 2000 the Vice-President of the First Panel refused the request for a provisional measure.

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

8. The Chamber notes that the Municipal Court II in Sarajevo determined that several defendants who shared the apartment with the applicant had no legal right to the apartment in question. The

effective judgment related to all others who illegally used the apartment as well. The applicant has not provided any information that he himself had a legal right to the apartment.

9. As to the applicant's complaint regarding his right to a fair hearing, the Chamber notes that the applicant does not substantiate his allegations. Noting further that the applicant was able to appeal the decision for execution of eviction, there is no evidence of a violation of the applicant's rights in this respect either.

10. 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

11. 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